

GOVERNMENT CENTER BOARD ROOM

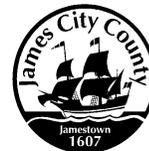
MARCH 22, 2011 - 4 P.M.

A. Call to Order

B. Roll Call

C. Board Discussions

1. New Town Shared Parking Plan (Summary) (Memorandum) (Attachment 1) (Attachment 2) (Attachment 3) (Attachment 4) (Attachment 5) (Attachment 6)
2. Location Video Coverage for Public Meetings (Summary) (Memorandum)
3. Zoning Ordinance Update (Summary) (Memorandum)
 - (Attachment 1) (Attachment 1a)
 - (Attachment 2)
 - (Attachment 3) (Attachment 3a) (Attachment 3b) (Attachment 3c)
 - (Attachment 4) (Attachment 4a)
 - (Attachment 5) (Attachment 5a) (Attachment 5b) (Attachment 5c) (Attachment 5d)
 - (Attachment 6) (Attachment 6a)
 - (Attachment 7) (Attachment 7a)
 - (Attachment 8) (Attachment 8a)
 - (Attachment 9) (Attachment 9a)
 - (Attachment 10) (Attachment 10a)
 - (Attachment 11)
 - (Attachment 12) (Attachment 12a)
 - (Attachment 13) (Attachment 13a)
 - (Attachment 14)
 - (Attachment 15)
 - (Attachment 16)



MEMORANDUM COVER

Subject: New Town Shared Parking Plan

Strategic Management Plan Pathway: N/A

Action Requested: Should the Board wish to provide further direction regarding shared parking to staff and New Town Associates?

Summary: This work session is intended to cover the following aspects of the New Town shared parking plan:

- Brief history of shared parking in New Town
- Overview of the methodology
- Specifics of the current parking situation in New Town
- Challenges of shared parking and future suggestions
- Board guidance

This portion of the work session has been allotted approximately 30 minutes. Ms. Leanne Reidenbach, Senior Planner, will be giving the presentation and the following individuals will also be present for questions and discussion: Mr. Larry Salzman, Managing Director of New Town Associates; Mr. Gordon Chappell, Chairman of the New Town Design Review Board; Mr. Jack Fraley, Chairman of the Planning Commission; Mr. Steven Hicks, Development Manager; and Mr. Allen Murphy, Director of Planning/Assistant Development Manager.

Fiscal Impact: N/A

FMS Approval, if Applicable: Yes No
N/A

Assistant County Administrator

Doug Powell _____

County Administrator

Robert C. Middaugh _____

- Attachments:**
1. Memorandum
 2. Map Showing Boundaries of Shared Parking
 3. October 2010 Shared Parking Report
 4. June 22, 2010, Memorandum titled Monticello Avenue in the Vicinity of Route 199/New Town
 5. Master Plan
 6. Figure 5, Monticello Comprehensive Plan and Cross Section

WORK SESSION

Date: March 22, 2011

MEMORANDUM

DATE: March 22, 2011

TO: The Board of Supervisors

FROM: Leanne Reidenbach, Senior Planner
Allen J. Murphy, Jr., Director of Planning/Assistant Development Manager

SUBJECT: New Town Shared Parking Plan

At its meeting on February 22, 2011, the Board of Supervisors requested a work session to discuss various aspects of the New Town shared parking plan. In preparation for the discussion, this memorandum will cover the following items:

1. Brief history of shared parking in New Town
2. Overview of the methodology
3. Specifics of the current parking situation in New Town
4. Challenges of shared parking and future suggestions
5. Board guidance

1. Brief History

Shared parking is based on the idea that different uses have different peak times for parking demand. As such, a development does not need all of the required number of space for each use. Instead the development can have the maximum required for one use and then share the spaces with other uses. A basic example is an office building and a residential unit sharing a parking lot. An employee of the office is generally using one parking space Monday through Friday from 8 a.m. - 5:30 p.m. A resident can then use that same parking space during the times when the office is closed (weeknights and weekends). Shared parking, especially in New Town, also anticipates that in a mixed use area, patrons and employees will park once and walk to various destinations (shops, offices, restaurants) rather than driving to each location and using separate spaces. Finally, shared parking takes into account the idea that mixed use areas are often more heavily served by public transit, which will further reduce reliance on parking spaces.

Both the original Board approved design guidelines for the entire New Town area and the subsequent design guidelines for the approved rezoning of Sections 2 and 4 stated that one of the design principles was that “development in the mixed use town center should be built at the street edge with shared parking at the center of the block. Building footprints should be small and the mix of uses (retail, office, residential, civic) within each block should ensure that shared parking is efficiently used.” Further detail of this vision was included in the specific Sections 2 and 4 Parking Standards section of the approved design guidelines. This section laid out that spaces within central lots should be shared by all uses and that certain uses (such as residential and office) could have a portion of the spaces dedicated to their use only subject to limitations. The Parking Standards also suggested the guidelines establish maximum parking ratios that are lower than the current minimum ordinance requirements to ensure a more urban development pattern and recognize the efficiencies of shared parking. Finally, the guidelines noted that density in the town center area was dependent on the provision of adequate parking and if, at some point in the future, additional density was requested, the developer could propose parking decks in larger blocks if economically feasible.

Section 24-59(e) of the Zoning Ordinance permits shared parking under certain circumstances. In

accordance with the adopted design guidelines, New Town was originally granted waivers to off-street parking and approved for shared parking by the Development Review Committee (DRC) on a block-by-block basis, but this approach resulted in delays to plan review. Attachment No. 1 shows the full geographical extent of shared parking in New Town. In 2004, the DRC voted to evaluate New Town's shared parking plan on a quarterly basis to shorten plan review times, but still allow the DRC to keep up-to-date on changes to Sections 2 and 4 in terms of new uses, building expansions, loss of spaces, etc. and to make sure there are still adequate spaces across the whole of Sections 2 and 4 to accommodate parking demand. New Town Associates develops a standard supply and demand chart for each review. Since Sections 2 and 4 are approaching build-out and the pace of changes that would impact shared parking has decreased, the DRC opted for a semi-annual shared parking review beginning in 2009.

2. Overview of the Methodology

Based on the DRC's 2004 recommendation, a consistent methodology for updating the New Town shared parking report was developed in 2005 using a parking planning consultant from HNTB Corporation, consultation with the Urban Land Institute (ULI), and information from other jurisdictions using shared parking.

The first step of the methodology involved developing figures for peak parking demand by block based on what uses were either located there or proposed to locate there (basically what the individual user would use if it was built as a stand-alone building on its own lot). New Town Associates used a nationally accepted parking rate of four spaces/1,000 square feet of office space (which translates to one space/250 square feet) and five spaces/1,000 square feet of retail space (one space/200 square feet) which are also in line with the County's retail and office requirements. As more users have located in New Town, the square footage figures have been refined to accurately reflect current conditions. At this point, New Town Associates knows what remaining development potential is in Sections 2 and 4 and can update shared parking based on an accurate full build-out.

The second step closely follows the shared parking methodology published by ULI to determine a single user's parking demands throughout various hours of the day, which is then expressed as a percentage of that user's peak parking demand. For example, at 2 p.m., an office building is projected to be using 97 percent of the parking spaces that its peak parking demand would indicate.

Step three involved re-analyzing each block's uses and peak parking demand and multiplying it by the ULI usage determined in Step 2 to calculate a parking demand for each user for every hour of the day. The figures were then aggregated to come up with hourly demands by block and overall and then compared to determine what were New Town's overall peak demand hours. For the mix of New Town's uses, 2 p.m. and 8 p.m. were determined to be peak demand hours.

3. Specifics of the Current Parking Situation in New Town

The DRC conducted the most recent review of the New Town Shared Parking Plan in October 2010 and the full report is included as Attachment No. 2. Overall, New Town Sections 2 and 4 are projected to operate with a slight shortage of parking spaces during the 2 p.m. peak period but with a significant surplus of parking during the 8 p.m. peak period. This shortage/surplus varies by block. This projection also includes changes to buildings and parking areas related to the American Family Fitness expansion of Building 900, but does not include the additional parking spaces proposed to be provided at the end of Main Street. Additionally, the figures do not include some on-street parking on Discovery Park Blvd., Casey Blvd., Center Street, Foundation Street, and any of the residential streets or alleys in Sections 2 and 4. As a result, there is actually a greater supply of parking spaces available than indicated in the report. It is also important to remember that the shared parking report considers that all

buildings that have site plan approval are built and occupied so under this methodology, the parking demands will not increase as tenants move into vacant spaces or as new buildings are constructed. The only exception is the block where the conference center/hotel is proposed to be located (behind Legacy Hall and Sullivan Square off Shannon's Place).

Overall, shared parking has allowed there to be approximately 800 fewer parking spaces (and more than 150,000 square feet of impervious cover) than would have been required if each use had been built on its own. This has resulted in a more compact and pedestrian-friendly area.

4. Challenges of Shared Parking and Future Suggestions

Shared parking has presented some challenges since this is the first large-scale shared parking plan in James City County. Many citizens, offices, and businesses have requested dedicated parking spaces, which would remove parking spaces from the overall supply. Other challenges have included making sure employees park in appropriate locations and do not occupy prime parking spaces and changing customer and business attitudes that New Town is not a traditional strip shopping center so patrons may have to walk to get where they want to go.

There is continued evidence from ULI and other planning books (including "Parking Best Management Practices" by Todd Litman) that indicate that walking and cycling improvements further reduce automobile travel by 5-10 percent and pedestrian-friendly areas reduce automobile travel by 10-30 percent, ULI's updates to its shared parking methodology also indicated that a few reserved spaces for banks or other service-related businesses did not appear to damage the success of shared parking plans. Transit, including bus and trolley stops, and bike parking facilities are provided throughout New Town. While figures for ridership are included in the shared parking report, no official parking space demand discount is given. Furthermore, if parking spaces are dedicated for users like police officers or are removed for other reasons, the change is expressed in the shared parking report as a loss in parking space supply.

In order to address some business-owner concerns about shared parking, New Town has been considering time limited parking in targeted areas. Time limited parking would involve designating certain spaces that are convenient to high-turnover uses as short-term parking with time limits between 30 and 120 minutes. These spaces are not dedicated to a specific use, but limiting the amount of time a person can park in a certain space improves their turnover by making "sharing" occur more quickly than a typical parking space. This also helps the problem of employees occupying prime parking spaces for multiple hours. Based on an initial proposal by New Town Associates, enforcement of the time limits would be split between New Town Associates on private streets and in parking areas and James City County Police on public streets. New Town has been investigating this option since 2007 and has been waiting to turn in a formal proposal for DRC consideration until construction is largely completed in the town center area, all central parking areas are installed, and public streets (with on-street parking) are accepted by the Virginia Department of Transportation (VDOT). Based on some preliminary research on the relationship between time limited parking and shared parking, sources indicate that the two are not in conflict. Rather, many sources suggest that a majority of on-street parking spaces near commercial uses be time limited to help facilitate turnover¹.

¹ Victoria Transport Policy Institute. Online Transportation Demand Management Encyclopedia: Shared Parking, Sharing Parking Among Multiple Users. <http://www.vtppi.org/tdm/tdm89.htm>. 18 February 2011.

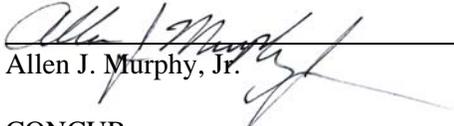
5. Board Guidance

Representatives from the Planning Division, New Town Associates, the New Town Design Review Board, and the Planning Commission will be present at the work session for questions and discussion. Based on the information provided, staff suggests the following questions for more directed discussion:

1. What are the Board's specific concerns with shared parking?
2. What suggestions does the Board have for future implementation of shared parking in New Town or for the review of shared parking?
3. What suggestions does the Board have for potential future applications of shared parking in other areas of the County?

For the Board's reference, staff has also attached background information regarding Monticello Avenue in the vicinity of New Town. This was previously provided to the Board in its June 22, 2010, reading file.


Leanne Reidenbach


Allen J. Murphy, Jr.

CONCUR:

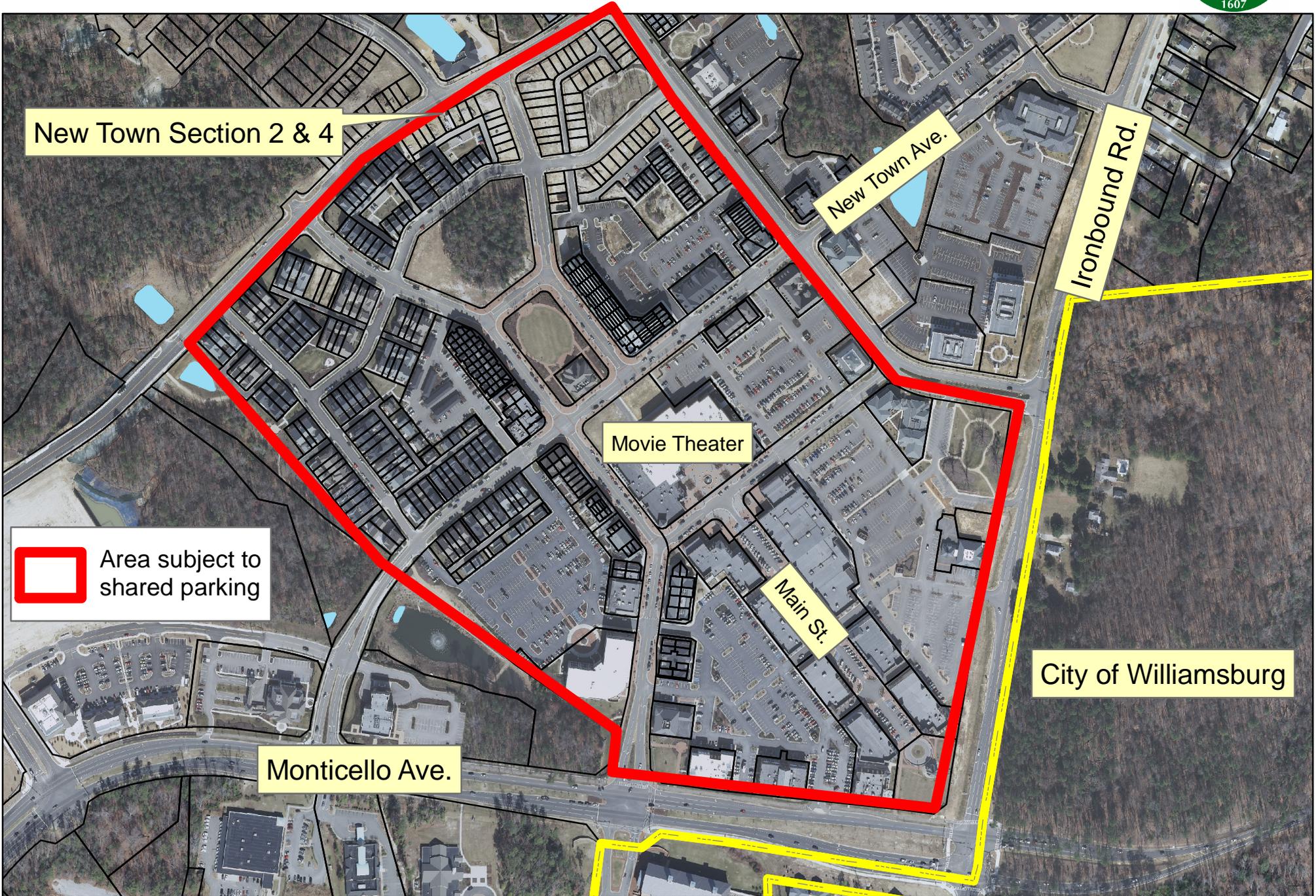
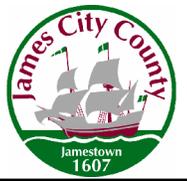

Steven W. Hicks

LR/AJM/nb
NTSharePark_mem

Attachments:

1. Map showing the boundaries of New Town shared parking
2. Shared parking report from October 2010
3. June 22, 2010, memorandum titled Monticello Avenue in the Vicinity of Route 199/New Town
4. Master Plan
5. Figure 5, Monticello Comprehensive Plan and Cross Section

New Town Shared Parking Boundaries



**New Town
Shared Parking Report**

OVERVIEW

The Shared Parking Plan for the Town Center in New Town was first approved by the Planning Commission (based on the recommendation of the Development Review Committee) on March 1, 2004. There have been 16 additional approvals of changes, additions, and/or updates since the original approval. The last detailed update was prepared in January 2010 and presented to the Development Review Committee on February 24, 2010.

Since February 2010, there are a few things that have happened which affect parking in New Town. They include:

Rollison Drive Construction – Rollison Drive is the street off the Casey Blvd. next to Goddard School. This area opens up a new section of New Town which will be primarily single family detached housing. This area will not participate in the Shared Parking Plan. The single family homes will have on site parking and some parking on the street will also be constructed. These single family homes provide additional users for the offices, retailers, restaurants and entertainment in New Town. They provide very little additional demand for shared parking since they are within easy walking distance of the Town Center. Several lots have transferred to builders and the first single family detached home has recently sold.

Discovery Park Blvd. Extension – Discovery Park Blvd. has been extended from the intersection with Casey Blvd. to the boundary of New Town. This area does not participate in the Shared Parking Plan, but additional on-street parking is included in this area. This area is planned for additional office buildings that will be self parked. Two office buildings along this section of Discovery Park Blvd. were completed in 2009. A 30,000 sq. ft. medical office building is currently under construction in this area.

Time Limit Parking – New Town is still waiting for final approval of on street parking from VDOT before preparing and presenting a plan for time limited parking in certain areas. We have begun preparation of a proposal for time limited parking. We will not present that proposal until we have final approval from VDOT of our on street parking. Punch lists have been prepared and some inspections are finished, but the roads have not been accepted yet.

Green Leafe – Green Leafe Restaurant converted about 4,000 sq. ft. of second floor space into additional restaurant space. This did not impact 2 p.m. weekday parking demand, but increased the 8 p.m. parking demand by 11 spaces.

Developers Realty – Developers Realty owns the stores along Main Street. They are considering expanding the space next to the Opus 9 restaurant for a fitness use. This would cause the loss of about 40 parking spaces from shared parking. The potential expansion was presented informally to the DRC late in 2009. We expect to submit details on this in the next few weeks.

BUS RIDERSHIP

We have received a recent update on bus ridership in New Town, which includes data for fiscal year 2010 (July 1, 2009 – June 30, 2010). It includes data for the Red, Green, and Purple routes which all serve New Town.

	Fiscal Year	Fiscal Year
	<u>2010</u>	<u>2009</u>
Daily Riders	853	747

This is an increase of 106 riders per day, and indicates annual ridership of over 310,000, up from about 272,000 in the previous year.

In addition, the Williamsburg Area Transit Authority added Trolley service in August 2009. The Trolley Service connects New Town, High Street, and Merchants Square. The trolley had about 31,000 riders in the first year which exceeded projections.

A new route serving Jamestown, that will have connections to New Town, is planned for fall 2010.

Annual overall ridership for the buses and trolleys is over 340,000. If the average car had two occupants, this would translate to a reduction of 170,000 automobile trips per year in the area.

Bus ridership continues to grow and is an important component of the success of shared parking in New Town.

SUMMARY AND CONCLUSION

The Shared Parking Plan is maturing and generally works well. Supply and demand are in balance. Bus, bicycle and pedestrian usage minimizes parking demand and these uses should all continue to grow. Time limit parking should begin implementation soon and this should increase the efficiency of the overall shared parking concept. The success of the Shared Parking Plan has allowed for the development of a successful mixed use “town center”, which requires about 800 fewer parking spaces than the same uses if they were built without a shared parking plan.

Supply and demand numbers are presented below. They have not changed since the last submittal.

**New Town
Shared Parking Report**

A Shared Parking update was submitted on August 30, 2010. This update should be attached to the August 30, 2010 update. This update addresses the proposed expansion of a building on Main Street in New Town.

There is currently a vacant retail space of about 10,000 sq.ft. on Main Street, in New Town, immediately next to Opus 9 restaurant. Developers Realty, which owns the stores along Main Street, owns this space. They have negotiated to bring a tenant to this space that would require the building to be enlarged. The tenant is American Family Fitness and the proposal is to increase the space by adding an additional 12, 400 sq. ft. of first floor space and a 2,930 sq. ft. mezzanine. The total expansion would therefore be 15,330 feet of gross building area.

This expansion would take place adjacent to the rear of the existing building and would cause the loss of approximately 60 parking spaces in Block 3. This would also cause increased demand of approximately 57 parking spaces at the peak occupancy hours for American Family Fitness. American Family Fitness has advised us that their peak hours are 5 a.m. to 8 a.m. and 5 p.m. to approximately 7 p.m.

We have updated the parking calculations, which are attached, which account for the decrease in supply and increase in demand in Block 3.

At 2 p.m. on a weekday, when demand at American Family Fitness is very low, there would be a shortfall of approximately 40 parking spaces. At 8 p.m. on a week night when American Family Fitness has high occupancy, there would continue to be an excess of supply over demand.

The overall supply in the Shared Parking Area is approximately 2,100 spaces. A decrease in supply of about 60 spaces and an increase in demand of almost 60 spaces causes a swing of about 120 spaces. This is slightly over a 5% change. As we reported in our May 30, 2006 update to Shared Parking, the Urban Land Institute had updated some information since the original parking plan was approved. Their update found a small reduction for parking needs for retail uses on weekdays, they found a small reduction for parking for cinaplexes, they found a small reduction for parking needs in a mixed used projects, and they indicated that a few reserved spaces for banks and other service-oriented businesses did not appear to damage the success of a Shared Parking Plan.

Also, in the May 2006 update we referenced a book that was new at that time that was called "*Parking Management Best Practices*". That book indicated that residents in a pedestrian-friendly community walk, bicycle, or ride transit for a significant percentage of their work trips. They also indicated that significant walking and cycling improvements typically reduced automobile travel 5-10%. The new book also stated that parking requirements can usually be reduced 10-30% in pedestrian-friendly areas.

New Town benefits from the concept of a pedestrian-friendly community where people can walk to various uses. New Town also benefits from being bicycle-friendly and a number of bike racks are situated throughout New Town. Bus service is also available and ridership is increasing in New Town.

It is also important to note that the supply of about 2,100 spaces calculated for the Shared Parking areas does not include on-street parking on the north side of Discovery Park Boulevard, both sides of Casey Boulevard, certain portions of Center Street, and a portion of Foundation Street. All-in-all, this is about 200 spaces that are near the Shared Parking areas, but are not included in supply.

Overall, it appears that an increase in demand and a reduction in supply of about 5% in the Shared Parking area could be well accommodated. It is also important to look at the specific location of the proposed expansion, which is where the change in parking will take place.

The end of the Block 3 parking lot near the intersection of Ironbound Road and Monticello Avenue is the area where some parking will be lost and where demand will increase. It is important to consider the needs of other users that are located near this area. These users primarily consist of the Opus 9 restaurant at the end of Main Street and the several businesses across from Main Street from Opus 9 and the proposed American Family Fitness. In an effort to maximize the available parking for these businesses, it is proposed that the spaces on both sides of Main Street in this block will be labeled that they are not for the use of patrons of American Family Fitness. These spaces would not be particularly convenient to the entrance to American Family Fitness. It is also been considered that one row of parking nearest Ironbound Road, consisting of about 15 spaces, should also be labeled to indicate that it is not available for patrons of American Family Fitness. We have also considered whether the traffic circle which is adjacent to the Opus 9 restaurant might be re-configured to allow for some additional parking supply to be located there. This idea is being reviewed by architects and I will provide an update on this item at the DRC meeting.

Overall, we feel that the Shared Parking Plan can readily accommodate the changes in parking that are required as a result of the proposed expansion of the building at the end of Main Street that will be occupied by American Family Fitness. The Shared Parking Plan in New Town generally works quite well and the 5% change in supply and demand should be readily accommodated by resources available.

**Block by Block
Supply - On Street Summary**

Block 2	Courthouse Street – 1 Side	12	
	Main Street – 1 Side	<u>53</u>	65
Block 3	Courthouse Street – 1 Side	4	
	Main Street – 1 Side	<u>52</u>	56
Block 5	Courthouse Street – 1 Side	10	
	Center Street – 1 Side	12	
	New Town Avenue – 1 Side	<u>11</u>	33
Block 6/7	Courthouse Street – 1 Side	9	
	New Town Avenue – 1 Side	16	
	Center Street – 1 Side	<u>12</u>	37
Block 8	New Town Avenue – 1 Side	11	
	Center Street – 1 Side	<u>12</u>	23
Block 9	Center Street – 1 Side	16	
	Foundation Street – 1 Side	16	
	Street at Rear – Both Sides	<u>4</u>	36
Block 10	New Town Avenue – 1 Side	9	
	Foundation Street – 1 Side	9	
	Discovery Park Boulevard – 1 Side	<u>14</u>	
		<u>32</u>	
	Total Street Parking		282

New Town
Blocks 2, 3, 5, 6, 7, 8, 9 and 10 combined
Parking Worksheet

Supply (w/o Garages)

<u>Block</u>	<u>Central Lots</u>	<u>Streets</u>	<u>Total</u>
2	391	65	456
3	434	56	490
5	327	33	360
6/7	284	37	321
8	122	23	145
9	N/A	36	36
10	<u>207</u>	<u>32</u>	<u>239</u>
Total	1,765	282	2,047

Comments: Supply in the central lots and on the streets immediately adjacent to the central lots is about 2,047 parking spaces. We expect about 10 spaces have been (or will be) lost for additional dumpsters and/or fire hydrants, which leaves supply at about 2,037 spaces. The supply count does not include the north side of Discovery Park Boulevard (about 40 spaces), both sides of Casey Boulevard (about 67 spaces), Center Street between Lydias Drive and Casey Boulevard (about 18 spaces), Foundation Street between Lydias Drive and Casey Boulevard (about 14 spaces), or any spaces on the residential alleys and streets.

Block 3 supply in Central Lots has been reduced by 60 spaces to accommodate construction of American Family Fitness.

Block by Block

		<u>2 PM</u> <u>Demand</u>	<u>Supply</u>	<u>Difference</u>	<u>8 PM</u> <u>Demand</u>	<u>Supply</u>	<u>Difference</u>
2	Office – 54,400	211			15		
	Retail – 80,600	<u>297</u>			<u>266</u>		
		508	456	-52	281	456	+175
3	Office – 21,100	82			6		
	Retail – 76,500	282			253		
	Fitness Center (26,200)	35			97		
	Residential Units - 3	<u>4</u>			<u>5</u>		
		403	490	+87	361	490	+129
5	Office – 65,000	252			18		
	Retail – 25,700	95			85		
	Residential Units – 22/6	<u>29</u>			<u>35</u>		
		376	360	-16	138	360	+222
6/7	Office – 10,600	41			3		
	Retail – 53,400	197			177		
	Theater – 2,090 seats	<u>209</u>			<u>523</u>		
		447	321	-126	703	321	-382
8	Office – 18,400	71			5		
	Retail – 6,500	24			22		
	Residential Units – 40/18	<u>53</u>			<u>63</u>		
		148	145	-3	90	145	+55
9	Legacy Hall – 250 seats	43	36	-7	45	36	-9
10	Office – 7,900	31			2		
	Retail – 39,600	146			131		
	Residential Units – 60	<u>22</u>			<u>34</u>		
		199	239	+40	167	239	+72
	Total	2,124	2,047	-77	1,785	2,047	+262

Comments: Supply may be reduced by about ten spaces due to fire hydrants and/or additional dumpsters. The peak demand shortage of 77 spaces is 3.7% of the supply. The theater and the restaurants tend to provide little demand at 2:00 p.m. on a weekday. Time limit parking, when initiated, will facilitate the turnover of some prime spaces and should facilitate parking in the busiest areas.

Block 3 retail square footage has been reduced to 76,500 sq. ft. and a line item of 26,200 sq. ft. has been added to account for American Family Fitness. Demand at 2 p.m. for American Family Fitness is estimated to be about 35%. Using 3.8 spaces per 1,000 sq. ft. the 2 p.m. demand is about 35 spaces. Demand at American Family Fitness at 8 p.m. is based on 97% occupancy which is likely above actual occupancy.

MEMORANDUM

DATE: June 22, 2010
TO: The Board of Supervisors
FROM: Allen J. Murphy, Jr., Director of Planning/Assistant Development Manager
SUBJECT: Monticello Avenue in the Vicinity of Route 199/New Town

At the direction of the County Administrator, staff has provided background information on Monticello Avenue in the New Town area to supplement the package of information requested by the Chairman of the Board.

Design Competition

In a unique public-private partnership, the property owners and the County conducted an international design competition in 1995 to create a high-quality plan for New Town. The competition was structured following numerous public meetings and discussions among interested parties, including the owner, other land owners, residents, business leaders, elected officials, and agency representatives. The goal of the competition was to create a high quality, enduring model for growing American communities. The town plan was expected to encompass a more urban and humanistic approach to the design of buildings and public spaces, and to avoid conventional suburban development patterns.

With respect to Monticello Avenue Extended, Section 3.4 of the Town Plan Competition Program, Transportation and Circulation Issues and Guidelines, stated that Monticello Avenue from Ironbound Road to Route 199 was expected to have four lanes by 2010. Regarding width and character, Monticello Avenue Extended was predicted to carry a significant amount of traffic through the site. The Competition Program stated that “Monticello Avenue should, for the purposes of the competition, be drawn as a four lane road.”

This statement reflected successful efforts from the County and the Casey family to get a larger initial investment in the design and construction of Monticello Avenue Extended. The Virginia Department of Transportation (VDOT) originally proposed Monticello Avenue Extended as a two-lane rural road. However, recognizing the long-term potential for a traditional village center at the crossroads of two new major road facilities, the County, the Casey family, adjoining landowners, and VDOT joined together and expended hundreds of thousands of dollars for improvements and upgrades to Monticello Avenue Extended to make it a four-lane road. The design of this roadway reflected the desire to accommodate traffic volumes within the context of a walkable, connected village center.

Construction of Route 199 and Monticello Avenue Extended by VDOT was underway in early 1997. Monticello Avenue was being constructed as a four-lane (two through lanes in each direction) divided highway from realigned News Road/Ironbound Road intersection west of Route 199 to approximately 800 feet west of Ironbound Road at existing Monticello Avenue east of Route 199. This 800-foot section west of Ironbound Road was to narrow down to one through lane in each direction on Monticello Avenue Extended to align with the existing two-lane section of Monticello Avenue at Ironbound Road. Subsequent investment by the County brought the intersection to its current design.

Master Plan and Initial Rezoning

On December 27, 1997, the Board of Supervisors approved a rezoning of 16 acres of land from M-1, Limited Business/Industrial, and R-8, Rural Residential, to MU, Mixed Use, and rezoned approximately 547 acres from

M-1 and R-8 to R-8 with proffers, located off the extension of Monticello Avenue between Ironbound Road and News Road (see attachment). Along with the initial rezoning, the Board approved the Design Guidelines and Master Plan for the New Town Mixed Use development. Please note that the 547 acres did not include areas under different ownership (such as the Richardson parcels) which had originally been master-planned as part of New Town, but where the property owners had chosen not to be included in the rezoning.

Section 5.1 of the 1997 New Town Design Guidelines references Monticello Avenue. The plan states that the road should “convey a sense of arrival and identity for New Town in a coherent and consistent manner. Continuous setbacks will allow for the preservation of the best existing trees and provide a park-like setting. Public infrastructure such as street and pedestrian lighting, bikeways, and sidewalks and a town fence or wall which defines the preserved areas of trees should be designed to convey the character of the new town. Guidelines for building placement and massing, parking, and access and the visual character or structures along the route will also contribute to the coherent character and identity of Monticello Avenue and the town itself.” The Guidelines refer to Figure 5 for plan and section information which shows Monticello Avenue as two lanes in each direction. Figure 5 has been included as an attachment to this memorandum.

The Master Plan prepared by Cooper, Robertson, and Partners, dated July 23, 1997 and revised December 8, 1997, set forth the general location of the major collector road system, proposed Master Plan areas, proposed use designations and densities, all of which were consistent with and embody the vision of the Master Plan. Proffers submitted with the application state that “the parties acknowledge and agree that the R-8 property will be rezoned and developed in phases over a number of years in a manner generally consistent with the R-8 Plan and that development of the entire property is necessary to realize the vision of the Competitive Plan.” The Proffers further state that “prior to the development of each successive phase, Owner shall apply to rezone that phase of the property to MU, with proffers and submit a master plan to the County at the time of rezoning.”

The Proffers stated that VDOT approved a Traffic Impact Study dated April 15, 1997, prepared by Dexter R. Williams, as supplemented by Memorandums and Technical Appendix, and dated July 2, 1997. The Traffic Study set forth the current Master Plan for necessary road and intersection improvements on and adjacent to the property based on current projections of the full build out of the property over a 20-year period. For each subsequent rezoning, the Owner was to submit proffers limiting development until such road and intersection improvements, if any, that the Traffic Study indicates were necessary to serve the approved development had been constructed or bonded. The Owner was to submit an updated traffic study necessary to achieve an overall Level of Service (LOS) C for each intersection and to achieve signalized intersection LOS C for each lane group as an isolated intersection or signalized intersection LOS D for each lane group as part of a coordinated traffic signal system.

The December 22, 1997, staff report included a section titled “Access and Traffic.” The report stated that “the Traffic Impact Summary executive summary and the overall master plan show multiple signalized intersections and unsignalized access points along both Ironbound Road and Monticello Avenue for New Town Sections 2 – 13. The design guidelines show additional potential access points to surrounding properties such as Eastern State Hospital and the New Quarter Industrial Park. All of these access points are listed in the proffers as intersections which must be included in future traffic studies. In order to determine the improvements needed for build-out of the entire New Town master plan area, Scenario 3 of the Traffic Impact Summary analyzes background traffic with Section 1 and Sections 2-13. The needed improvements are listed in Page 3 of the summary and are identified in the proffers as improvements which may be needed when the entire property is rezoned to MU. Updated traffic studies will be required when the R-8 sections are proposed for MU zoning. As required by proffer, the studies will identify road improvements necessary to achieve signalized LOS C for each intersection, and to achieve signalized intersection LOS C for each lane group as an isolated intersection or signalized intersection LOS D for each lane group as part of a coordinated traffic signal system. LOS D is adequate for certain lane movements in these instances to avoid the suburban style improvements that would be

needed to achieve a LOS C for the movements, such as triple left-turning lanes, and to provide for urban scale development. The Proffers for traffic improvements satisfy staff's and VDOT's concerns about maintaining an acceptable LOS and about orderly traffic study updates for future development."

The Executive Summary of the April 15, 1997, Traffic Impact Study included as an attachment to the December 22, 1997, staff report was reviewed and approved by VDOT. A number of external factors included in the study were in a state of flux and thus complicated the study. The 2015 Hampton Roads Regional Transportation Plan and forecast was used in the study to calculate background traffic, but was not available until late 1996. VDOT's design for the Monticello Avenue/Ironbound Road intersection was revised in March 1997 and the Route 199 interchange design was still a work in progress.

While VDOT did not recommend any changes in the peak hour forecast incorporated in the study, VDOT did request that three forecast scenarios be developed:

1. Scenario 1: 2015 peak hour traffic without the Casey property
2. Scenario 2: 2015 peak hour traffic with the Casey Property Section 1 (Courthouse Area)
3. Scenario 3: 2015 peak hour traffic with all Casey property

Scenario 3 included peak hour traffic for all New Town sections east and west of Route 199. The Casey East area also included property owned by Philip Richardson, Williamsburg Merchants, and Virginia Power. Scenario 3 would have required extensive road improvements including widening Monticello Avenue by adding a third through lane in each direction eastbound and westbound, second left-turn lanes eastbound at all Casey property access points, and a second southbound left-turn lane at Casey West access. The Traffic Impact Statement indicated that six lanes might possibly be necessary, but that traffic counts and reassessment of the traffic forecasts every five years or so would provide a much better basis for defining road improvements to accommodate realistic traffic demands.

Section 9 Rezoning

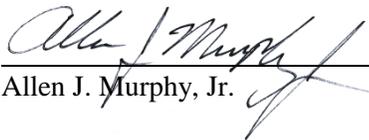
The last major traffic study conducted for a New Town rezoning was the study for Section 9 conducted by Dexter Williams in 2006 (this study also included Sections 7 and 8). The staff report includes comments from Kimley-Horn and Associates. These comments state that Monticello Avenue is currently a major arterial serving residents in the James City County and Williamsburg area of Virginia. The roadway is a four-lane divided facility with a grassy median and posted speed limit of 45 mph. Increased development within James City County and at New Town will result in the evolution of Monticello Avenue from a traditional suburban arterial roadway to a more urban arterial type of roadway while retaining its purpose of accommodating both local and intraregional travel. Monticello Avenue will remain a four-lane divided facility, but it is likely the posted speed limit will be reduced to 35 mph to support a more urban function (i.e., the interaction of vehicles, pedestrians, and bicyclists). Interconnected and coordinated traffic signals will accommodate progression of traffic along the corridor which is vital to the sustainment of acceptable traffic operations in the future. The presence of a landscaped median reduces conflicts and restricts turning movements to designated intersections. Additional crosswalks along the Monticello Avenue corridor will be strategically located at intersections that best accommodate pedestrian activities. The multi-use path will be retained along the corridor to promote pedestrian and bicyclist mobility. To promote traffic progression along the Monticello Avenue corridor, existing and future traffic signals will need to be interconnected and coordinated.

The results of the Section 9 study indicated that, with the proffered improvements, the seven intersections included under the 1997 proffers (Ironbound Road to WindsorMeade Way) would operate in accordance with

the original proffers. An overall LOS C was projected as was a LOS D for some lane groups for these seven intersections for all three scenarios in 2015; therefore the proposal met the standards of the original New Town proffers.

CONCLUSION:

When the Board adopted the initial New Town rezoning, construction of Monticello Avenue as a four-lane divided highway was already underway and this was reflected in staff report and case documents. The design of this roadway reflected the desire to accommodate traffic volumes within the context of a walkable, connected village center. The 1997 Executive Summary of the Traffic Impact Statement indicated that six lanes might possibly be necessary, but that traffic counts and reassessment of the traffic forecasts every five years or so would provide a much better basis for defining road improvements to accommodate realistic traffic demands. Subsequent New Town rezonings and their associated traffic impact studies prior to the Courthouse Commons proposal have indicated LOS C could be met with a four-lane divided highway configuration with methods such as proffered turn-lane improvements.


Allen J. Murphy, Jr.

CONCUR:


Steven W. Hicks

AJM/nb

MontAve_NT_mem

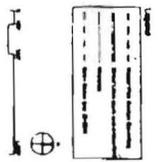
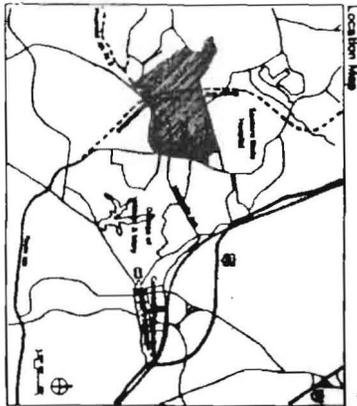
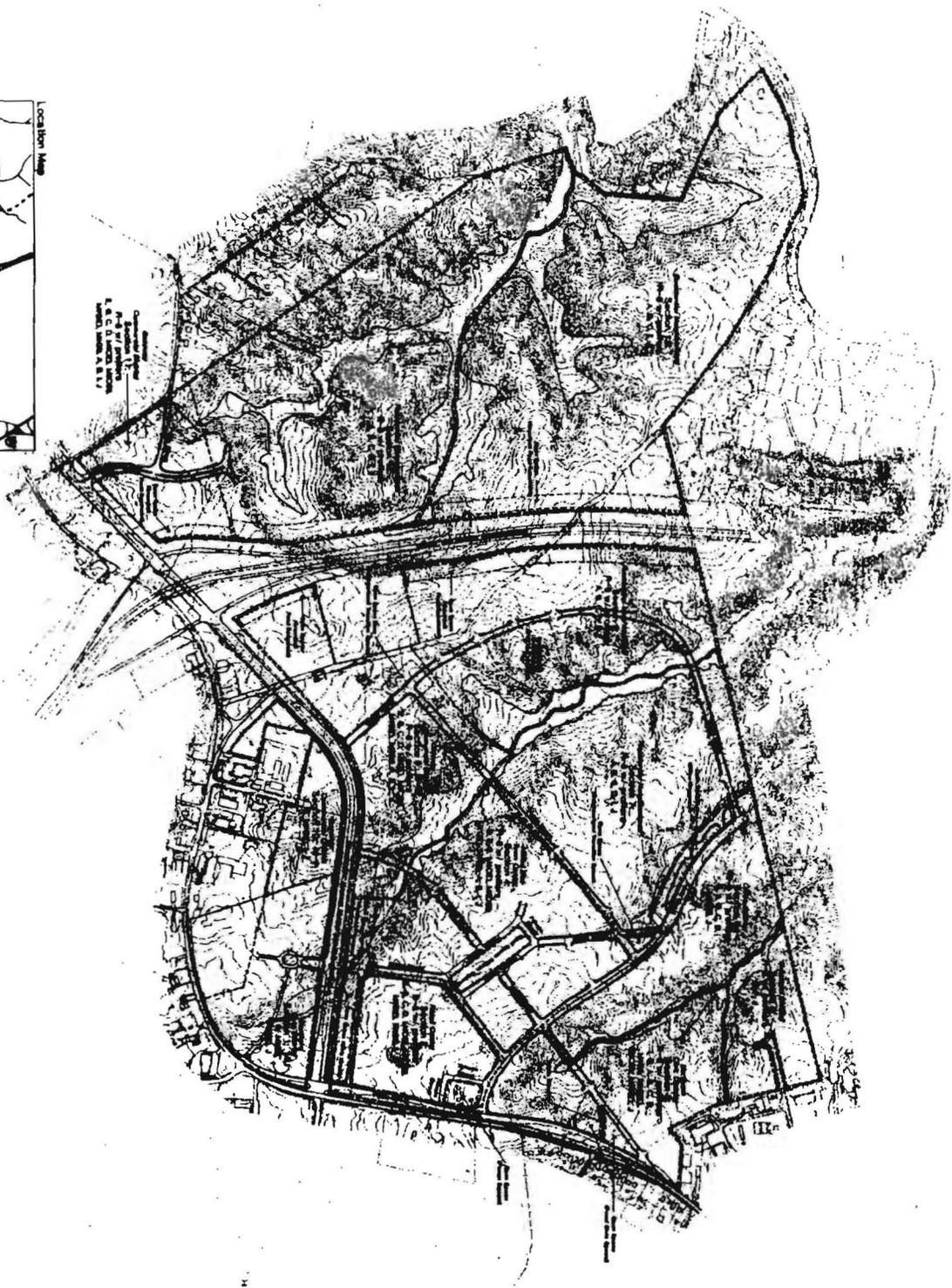
Attachments:

1. Master Plan
2. Figure 5, Monticello Comprehensive Plan and Cross Section

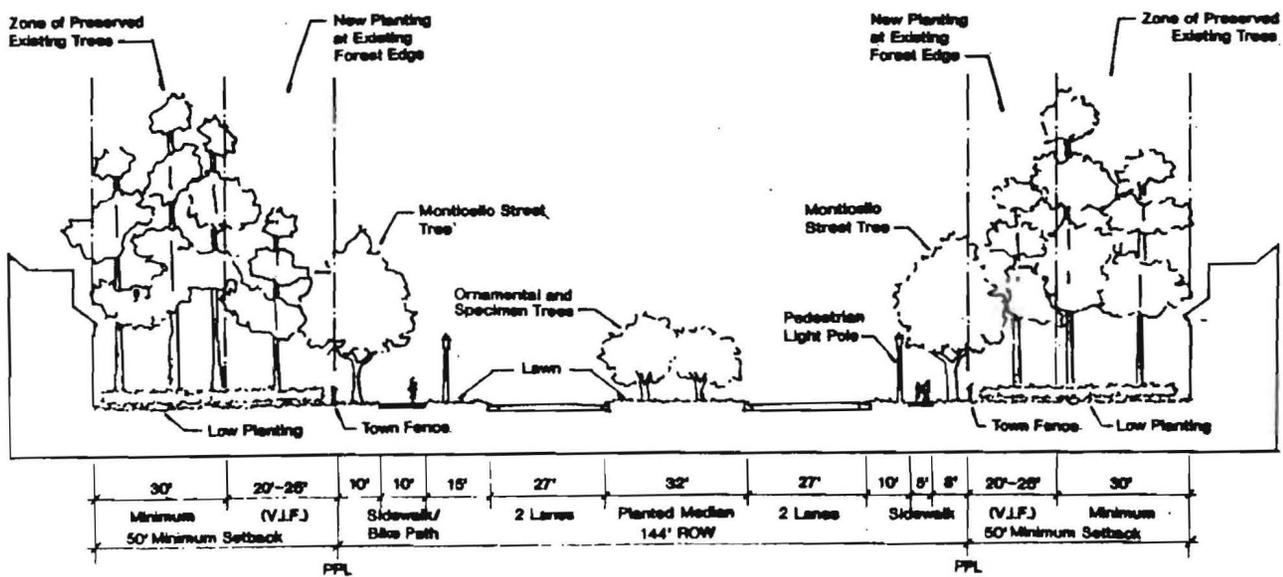
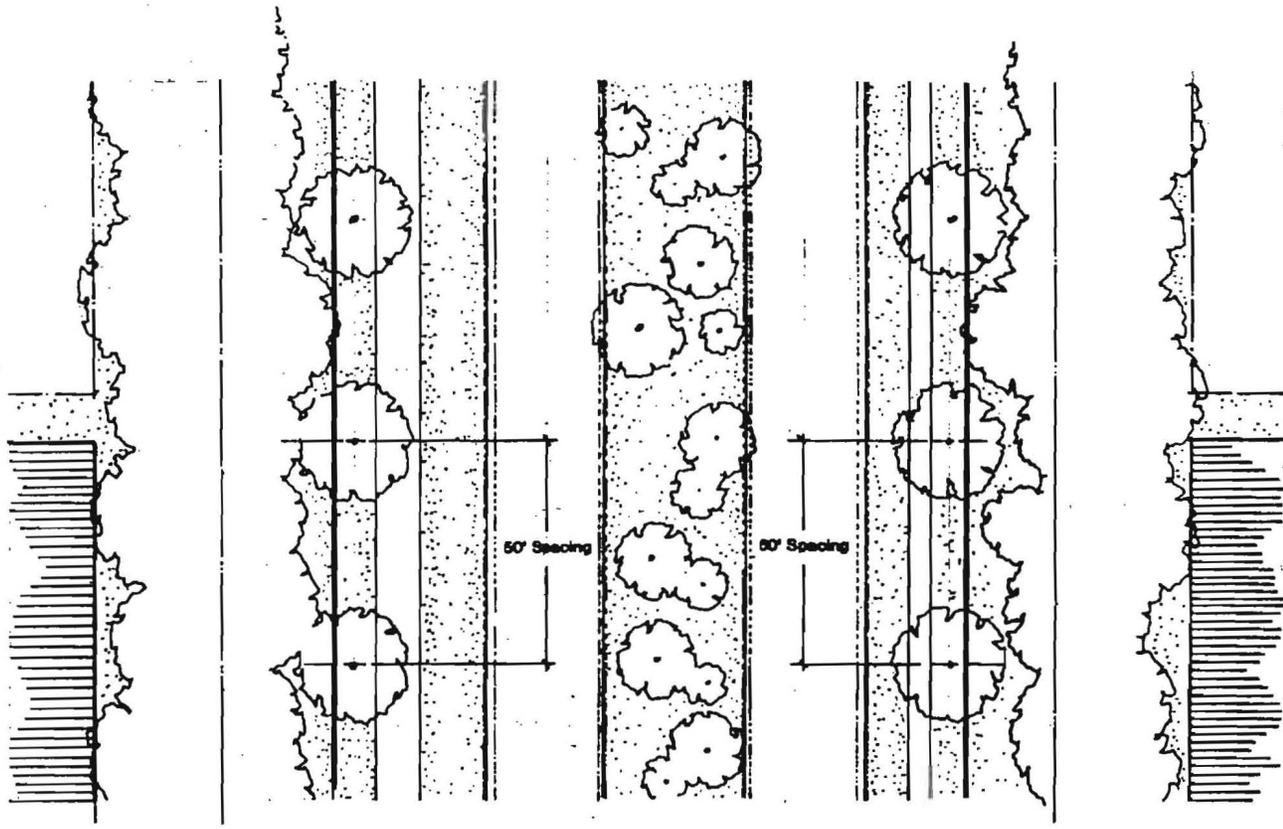
Development Types

A Single Family	F Medium-Density Residential
B Two-Family Family	G Office
C Two-Family Townhomes and Apartments	H Industrial
D Three-Family Townhomes and Apartments	I Warehouse and Public Customer Open Space
E Commercial	J Retail Open Space

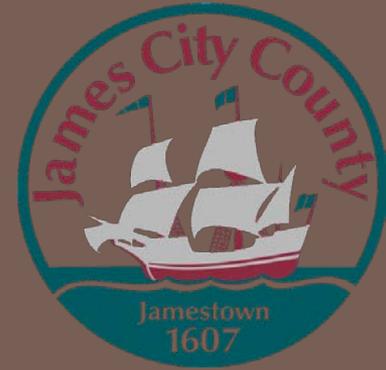
NOTE: Urban form is dependent upon all three development codes used.



Master Plan
Figure 2



Monticello Comprehensive Plan and Section
Figure 5



New Town Shared Parking Update

Board of Supervisors Work Session
March 22, 2011

Shared Parking Update

2

- ▣ Representatives Present
 - ▣ Larry Salzman, New Town Associates
 - ▣ Gordon Chappell, New Town Design Review Board
 - ▣ Jack Fraley, Planning Commission

Shared Parking Update

3

▣ Background

- ▣ Way for uses with different peak demands to share the same parking spaces
- ▣ Used in New Town Sec. 2&4 since 2004
- ▣ Evaluated by DRC semi-annually

New Town Section 2 & 4

New Town Ave.

Ironbound Rd.

Movie Theater

Main St.

City of Williamsburg

Monticello Ave.

 Area subject to shared parking



Shared Parking Update

5

- ▣ Current Situation
 - ▣ 2 p.m. peak
 - ▣ 8 p.m. peak
 - ▣ Varies by block
 - ▣ Exclusions
- ▣ Time limited parking

Shared Parking Update

6

■ BOS Guidance

- Specific concerns with shared parking?
- Suggestions for future implementation/review of shared parking in New Town?
- Suggestions for potential future applications of shared parking in other areas of the County?



MEMORANDUM COVER

Subject: Cost options for large work sessions and special event broadcasting/videotaping and streaming

Strategic Management Plan Pathway: 5.e - share information with citizens

Action Requested: Shall the Board give direction and approval to expend resources to increase video coverage of additional public meetings and events to air live or playback on access channels and web?

Summary: Over the past few months, the Board of Supervisors has requested video coverage of regional joint meetings and expressed interest in expanding video coverage of public meetings held at locations outside existing County broadcast facilities.

The following options are for discussion purposes. Each option will produce a program of slightly different video and audio quality with Option 1 producing the lowest production quality.

Option 1 –Tape meetings/events on location by reallocating existing staff resources, hiring contractors and purchasing supplemental equipment.

Option 2 – Allows taping at most locations in the County with quick turnaround and the potential for live broadcasts.

Option 3 – Allows taping at most locations in the County with quick turnaround and the potential for live broadcasts and includes additional equipment installation in the Building D conference room.

Option 4– With some renovations; upgrade the Community Video Center (CVC) as a facility for taped/live joint meetings. Can accommodate up to 50 (audience and TV guests).

Fiscal Impact: Depending on option chosen, capital costs range between \$30,000 to \$308,000. Staffing (contractors and/or one FTE) between \$20,000 to \$80,000.

FMS Approval, if Applicable: Yes No

Assistant County Administrator

Doug Powell _____

County Administrator

Robert C. Middaugh _____

Attachments:
1. Memorandum

WORK SESSION

Date: March 22, 2011

MEMORANDUM

DATE: March 22, 2011

TO: The Board of Supervisors

FROM: Randy Hisle, Chief Video Engineer
Jody Puckett, Communications Director

SUBJECT: Cost Options for Large Work Sessions and Special Event Broadcasting/Videotaping and Streaming

Over the past few months, the Board of Supervisors has requested video coverage of regional joint meetings and expressed interest in expanding video coverage of public meetings held at locations outside existing County broadcast facilities. Currently, meetings that need video coverage are held in the Building F work session room with the option to move larger meetings to the main Board Room, which has limitations.

Staff has prepared several options and rough costs to address two identified concerns expressed by the Board:

1. The need for a larger work session space with the capability to broadcast live, videotape, and replay meetings in a timely manner on JCC TV and stream meetings live on the County website.
2. The desire to broadcast or videotape special events or meetings from locations that do not have fixed video facilities such as Legacy Hall, Williamsburg-James City County schools, or libraries and maintain broadcast quality that's equivalent to existing Board work session broadcasts.

The following options and their estimated costs are for discussion purposes. Each option will produce a program of slightly different video and audio quality. However, Option 1 is the only scenario that would produce video production quality below that of a regular Board of Supervisors meeting. In addition to production quality, criteria that will determine what meetings need video coverage at outside facilities should be considered.

Option 1 – Tape meetings/events on location by reallocating existing staff resources, hiring contractors, and purchasing supplemental equipment.

Staff would continue to use Building F broadcast work session room and if required by the number of participants, move meeting to buildings without video facilities (such as Building D conference room, Legacy Hall, Williamsburg-James City County schools, libraries, etc.); use existing communications staff, contractors and existing video equipment to tape; this option requires editing and delayed broadcast (usually 10 to 12 working days later to air meeting after recording); this option also reduces staff time currently used to produce videos for JCC TV and web.

- Capital expense: \$10,000 for microphones and audio board
- Staffing needs: 80 hours of communications staff/contractors x 12 estimated special meetings a year = \$20,000 (\$1,666/per meeting).

Option 2 – Allows taping at most locations in the County with quick turnaround and the potential for live broadcasts.

Purchase a video production van equipped to broadcast live or record meetings and events on location including the renovated Building D conference room; this option allows next day broadcast with little or no editing.

- Capital expense: \$175,000 to build production van
- Staffing needs: one additional full-time staff* and three contractors x 12 special meetings a year – \$80,000/annually

* Staff position would fill need for truck setup and tear down, location logistics, video equipment maintenance, marketing, scheduling and managing vehicle, scheduling, and supervising contractors.

Option 3 – Allows taping at most locations in the County with quick turnaround and the potential for live broadcasts and includes additional equipment installation in the Building D conference room.

Purchase video production van (Option 2); install fixed remote cameras and microphones permanently in renovated Building D conference room. This option allows for quicker setup times and less obtrusive camera operation.

- Capital expense – \$132,000 for fixed remote cameras and fixed microphones in addition to production van. (total \$308,000)
- Staffing needs: same as Option 2

NOTE: The Building D conference room could be considered as a larger space for Board of Supervisors work sessions and joint meetings with other elected officials. However, if the Building D room is used for taped and live meetings, it will need additional sound reinforcement as part of the renovation costs.

Option 4 – With some renovations; upgrade the Community Video Center (CVC) as a facility for taped/live joint meetings. Can accommodate up to 50 (audience and TV guests).

CVC is fully equipped for taped and live meetings with some needed additions: adequate rest room facilities, meeting Audio/Visual needs, furniture, soundproofing, and backdrops.

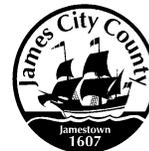
- Capital expense - \$5,000 conference tables and chairs; \$5,000 Audio/Visual meeting equipment; \$20,000 soundproofing/backdrops; rest room renovation required (TBD)
- Staffing needs: use existing staff with contractors

Randy Hisle

Jody Puckett

RH/JP/nb
WSCostOptns_mem

Attachment



MEMORANDUM COVER

Subject: Zoning/Subdivision Ordinance Update Work Session – Remaining Items

Strategic Management Plan Pathway: 3: Plan responsibly for the needs of a growing and diverse community

Action Requested: Shall the Board recommend any guidance on the categories summarized in the memorandum, particularly noting areas of agreement or disagreement with staff’s recommendations or the Policy Committee’s guidance?

Summary: Staff has been working on Stage 1 of the Zoning Ordinance and Subdivision Ordinance update process, specifically, developing memorandums for each category of districts that provides background on identified issues, describes input received during the update process (including the Sustainability Audit recommendations), presents policy choices, and includes staff recommendations. Staff has presented the memorandums for most of the remaining categories to the Policy Committee. The staff memorandums and minutes from the Policy Committee meetings are listed in the memorandum, and are posted electronically on the Board's Work Session Agenda webpage (<http://www.jccegov.com/agendas/index.html>).

Fiscal Impact: N/A

FMS Approval, if Applicable: Yes No

Assistant County Administrator

Doug Powell _____

County Administrator

Robert C. Middaugh _____

- Attachments:**
1. Floodplain Overlay District Additional Information Memorandum
 2. Signs Memorandum
 3. Residential Districts Memorandum – Affordable Housing and Infill/Redevelopment
 4. Residential Districts Memorandum – Cluster Overlay
 5. Administrative, Procedural, and Submittal Items Memorandum
 6. Fiscal Impact Study Guidelines Memorandum
 7. Environmental Submittal Guidelines Memorandum
 8. Non-Conformities Memorandum
 9. Subdivision Ordinance Memorandum
 10. Mixed Use Districts Memorandum
 11. Form Based Code/Redevelopment Memorandum
 12. Urban Development Areas Memorandum
 13. Green Building Memorandum
 14. Unapproved February 9, 2011, Policy Committee Meeting Minutes
 15. Unapproved February 23, 2011, Policy Committee Meeting Minutes
 16. Unapproved February 24, 2011, Policy Committee Meeting Minutes

Work Session

Date: March 22, 2011

MEMORANDUM

DATE: March 22, 2011

TO: The Board of Supervisors

FROM: Allen J. Murphy, Jr., Director of Planning/Assistant Development Manager
Tamara A. M. Rosario, Principal Planner

SUBJECT: Zoning/Subdivision Ordinance Update Work Session – Remaining Items

Process To-Date and Purpose of Work Session

The Board of Supervisors adopted a Zoning/Subdivision Ordinance update methodology in May 2010, and held a kick-off work session in August 2010. Since that time, staff has been working on Stage 1 of the process, specifically, developing memorandums for each category of districts that provides background on identified issues, describes input received during the update process (including the Sustainability Audit recommendations), presents policy choices, and includes staff recommendations. In addition to the priority categories discussed at the last Board work session, staff has now presented the memorandums for the following categories to the Policy Committee:

1. Development Standards (follow-up items)
2. Residential Districts
3. Procedural and Administrative Items
4. Subdivision Ordinance
5. Mixed Use Districts and Form Based Code
6. Green Building

The staff memorandums and minutes from these Policy Committee meetings are listed at the end of this memorandum, and are posted electronically on the Board's Work Session Agenda webpage (<http://www.jccegov.com/agendas/index.html>). The Policy Committee chair provided updates on the topics covered to the Planning Commission at their March 2, 2011, meeting.

The overall goals of today's work session are to:

1. Inform the Board of the process to-date;
2. Present a summary of the identified issues, staff recommendations, and input from the Policy Committee meetings for each of the four priority items; and
3. Gather guidance from the Board regarding the direction moving forward.

After this Board work session, staff will proceed with developing draft ordinances for the categories listed above during Stage 2 of the ordinance update process. The draft ordinances will be reviewed by the Policy Committee and Planning Commission, and then proceed to the Board with staff's recommendation for final approval.

Category Summaries

1. Development Standards

The majority of staff's memorandums on the Development Standards topics were presented to the Policy Committee on February 3 and February 7, 2011, and the Board began discussion of them at their February 22, 2011, meeting. The cover memorandum summarizing these items and the individual memorandums can be found in the Board's February 22, 2011, materials.

This memorandum contains information on two additional Development Standards topics: the Floodplain Overlay District and Signs. The Floodplain Overlay District was previously discussed by the Board, and this meeting's information is an update regarding material which was presented to the Policy Committee at its March 16, 2011, meeting. The memorandum on Signs was also presented to the Policy Committee at its March 16, 2011, meeting. These memorandums and their associated attachments are included as Attachment Nos. 1 - 2.

Staff's recommendations on these topics were as follows:

- Floodplain Overlay District –
 - The Policy Committee asked staff to evaluate the impacts of increasing the elevation of buildable sites from one foot to two feet above the floodplain. Staff determined that in riverine floodplain districts buildable sites should be two feet above the 100-year floodplain and that building sites in tidal floodplain districts should be two feet above the 100-year floodplain or, where land is already above the floodplain, be filled to be two feet above the floodplain. This would not allow filling in the floodplain and would prevent unnecessary flood damage to property.
 - Staff was also asked to consider the addition of language that would require using flood resistant materials and construction methods. Staff determined that this is already required by applicable building codes and will clarify by references in the Floodplain regulations.
- Signs
 - Review sign lighting, height, and location guidelines to ensure the incorporation of current industry material and construction standards.
 - Review requirements for directional signage to ensure that the intended directional purpose is achieved while preventing visual clutter.
 - Clarify definitions for flashing, animated, and digital signage.

Policy Committee input on these two items will be provided at the Board's work session.

2. Residential Districts

Staff's memorandum on the Residential Districts was presented to the Policy Committee on February 9, 2011, and included discussion of affordable housing, redevelopment/infill, and the Cluster Overlay District. These memorandums are listed as Attachment Nos. 3 - 4.

With regard to affordable housing, staff recommended a housing policy be developed that addresses the following:

- Defining affordable versus workforce units;
- Establishing a desired percentage (or range) of affordable and/or workforce units to total residential units;
- Stating a desire for mixed cost neighborhoods;
- Integrating affordable and/or workforce units with market rate units;
- Providing for reduced cash contribution for schools for affordable and/or workforce units;
- Establishing guidelines for terms with regard to soft second mortgages, as well as provisions for resale or re-rental of units, including establishing right of first refusal to the Office of Housing and Community Development (OHCD);
- Providing for cash contribution to a James City County Housing Fund to be used to increase the supply of affordable and/or workforce units in the County; and
- Establishing OHCD as the County designee for affordable and/or workforce housing.

In terms of redevelopment/infill, staff recommended creating a new district in the Zoning Ordinance to accommodate and encourage redevelopment proposals. The existing Planned Unit Development (PUD) district in the Zoning Ordinance can be used as a model, with modifications to achieve the desired outcomes. The new district can accommodate both residential and commercial redevelopment and infill, and staff recommended that it do so.

With regard to the Cluster Overlay District staff presented recommendations on the following items:

- Provide additional guidance on desired open space design;
- Require a conceptual/sketch plan prior to submission of a master plan;
- Investigate ways to include graphics in the ordinance or develop a separate development design guidebook;
- Look at linking the open space percentage to the development density bonus system by scaling the required open space amount to the scale of the proposed density;
- Explore restructuring the density bonus system to emphasize the fundamental elements of cluster design;
- Revise the items used as density bonus items;
- Update the developable area description; and
- Provide clarity in Section 24-540 stating that the Cluster Overlay District is permitted only inside the Primary Service Area.

While discussed in the memorandum, staff did not recommend changing the method for calculating density used in Cluster Overlay, or recommend concentrating on additional incentives for by-right cluster development.

Policy Committee input on affordable housing and redevelopment/infill was generally consistent with staff recommendations. The Committee concurred with a housing policy, rather than an affordable dwelling unit ordinance, and deferred to the Board on all details. With regard to redevelopment/infill, the Committee generally concurred with all recommendations, limiting feedback to increasing clarification and/or quantification of the design elements presented in the Residential memorandum's Attachment No. 3.

The Policy Committee also generally concurred with staff's recommendations on the Cluster Overlay District. Policy Committee members provided an example open space design principles description and example open space design graphics for staff's consideration. Staff also received a list of items to consider, including making cluster by-right, providing for certain commercial uses as permitted or specially permitted uses (this would be done in coordination with the R-1, R-2 and R-5 districts, since cluster is an overlay), and considering ways to provide density bonuses for a combination of items, such as providing a certain percentage of units that front on open space in combination with provision of affordable housing.

3. Procedural and Administrative Items

Staff's recommendations on Procedural Descriptions, Submittal Requirements, and Administrative Items were presented to the Policy Committee on February 23, 2011. These memorandums are listed as Attachment Nos. 5 - 8.

Staff recommended the following:

- Amend Section 24-143 of the Zoning Ordinance, when site plans are required, to include criteria to exempt certain types of development from the site plan submittal requirement;
- Amend Sections 24-7 of the Zoning Ordinance and 19-15 of the Subdivision Ordinance to remove the enumerated fee schedule and replace it with language referencing a separate fee scheduled document approved by the James City County Board of Supervisors;
- Amend Section 24-2 of the Zoning Ordinance, Definitions, to include revisions to existing definitions and define new terms;
- Include illustrations throughout the ordinance in order to visually aid the understanding of planning/zoning terms and concepts;
- Develop guidelines for environmental impact, fiscal impact studies, and traffic impact analysis (see 3.a., 3.b., and 3.c.);
- Amend Article VII, Nonconformities, to clearly separate sections for nonconforming structures, uses, and signs (see 3.d.); and
- Amend a number of items in response to agency comments on needed updates, and make clarifications in response to frequently asked questions.

The Policy Committee generally agreed with staff's recommendations. The Committee further recommended that staff consider site plan submittal exemption criteria such as expansion of any building or structure by less than 20 percent of the existing floor area. They also recommended revisions to existing definitions and new ones to have their meanings consistent with other documents such as the 2009 Comprehensive Plan.

3.a. Procedural and Administrative Items-Environmental Submittal Requirements Guidelines

Staff recommended that environmental submittal requirements be compiled in order to clarify what is required for applications. Staff recommended that a policy be adopted for legislative cases and that the list of requirements be included in the Zoning and Subdivision Ordinance. A checklist could also be created that would be included with applications.

The Policy Committee generally agreed with staff's recommendation that environmental submittal requirements be compiled in one location in order to make it clear for applicants what is required with each application. The Policy Committee supported the use of a checklist and asked that all Board adopted policies be included on the website.

3.b. Procedural and Administrative Items-Fiscal Impact Study Guidelines

Staff recommended that the guidelines for fiscal impact studies, prepared by staff, be included into the submittal requirements for legislative cases in the ordinance. The Policy Committee supported the creation of standard guidelines for fiscal impact studies.

3.c. Procedural and Administrative Items-Nonconformities

Staff recommended amending the Zoning Ordinance to address the various types of nonconformities in separate sections (i.e., nonconforming signage, structure, and uses). The Policy Committee supported staff's recommendation.

4. Subdivision Ordinance

Staff's memorandum on the Subdivision Ordinance was presented to the Policy Committee on February 23, 2011. This memorandum is listed as Attachment No. 9.

Staff recommended the following:

- Coordinating the Subdivision Ordinance with the *Code of Virginia* regarding alternative onsite sewage systems, with relatively minor changes to terminology, submittal information needs, and notation on subdivision plats;
- Including in the family subdivision provisions a requirement for five years of ownership prior to subdivision and limitation of their use to the R-8 and A-1 zoning districts; and
- Amending a number of items in response to agency (JCSA, Virginia Department of Transportation (VDOT), etc.) comments on needed updates, and making clarifications in response to frequently asked questions.

The Policy Committee concurred with staff's recommendations on these items. In addition, the Policy Committee asked staff to strike subsections (b) and (c) in Section 19-23, which provide for Development Review Committee (DRC) review (as opposed to administrative review) of major subdivision plans. They also asked staff to ensure that the terminology used in Section 19-20 for master plans was consistent with the definition and description of master plans throughout the ordinance.

5. Multiple Use Districts, Form Based Code, and Urban Development Area Information

Staff's memorandums on multiple use districts and form based code were presented to the Policy Committee on February 24, 2011. These memorandums are listed as Attachment Nos. 10 - 11. The major issues and recommendations included the following items:

- Inclusion of a "balance of uses" section that would help ensure an actual mixed use development;
- Addition of a construction phasing section to ensure residential development is not constructed entirely before commercial/industrial development;
- Inclusion of complementary design requirements to help create a sense of place for mixed use developments;
- Discussion of the provision in R-4 that allows developers who control the master plan of a community to add additional acreage to the development (no change from current ordinance language was needed);
- Discussion on a number of sustainability audit recommendations; and
- Consideration of a new redevelopment district to promote redevelopment in Toano and throughout the County, rather than a form based code.

The Policy Committee was generally in agreement with staff's recommendations, both for the multiple use districts and the redevelopment district approach; however, the Committee did recommend better defining the individual Comprehensive Plan descriptions of mixed use so as to better inform zoning proposals of these specific areas. Committee members felt that this could help create more predictability for the community. The Committee also discussed providing more specific recommendations for a "balance of uses" section in mixed use that would include a reorganization of the use list into various categories and a mixing of uses that could be based on parcel size and Floor Area Ratio (FAR) rather than just by percentage.

At the March 16, 2011, meeting, staff presented the Policy Committee with information about Urban Development Areas in James City County (see Attachment No. 12); this information is related to the multiple use districts, but will be proceeding on a different path towards Board certification to comply with State legislation.

6. Green Building

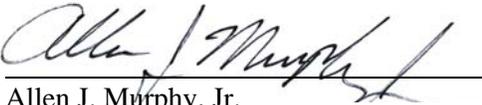
Staff's memorandum on Green Building was presented to the Policy Committee on February 24, 2011. This memorandum and attachment are listed as Attachment No. 14. The major issues and recommendations in the report included six main topics:

- Use of Leadership in Energy and Environmental Design (LEED) and EarthCraft as the County's primary benchmark programs, with provisions for the use of equivalent programs;
- Expectation for actual program certification as the County standard, given the desire for verification of the practices committed to, and given current resources;
- Expectation via a policy document that rezoned or specially-permitted buildings over 10,000 square feet achieve green building certification at the basic certified level, and that 35 percent of homes within major subdivision residential developments achieve basic certification (preliminary recommendation pending further study). Staff also recommends including opportunities in the ordinance to incentivize higher certification levels, and certification of development that would otherwise be below the policy threshold. Finally, staff recommends investigating ways to provide recognition for certification;
- Inclusion in the policy document of information on the certification process and timeframe, as well as provisions for enforcement should it become necessary;
- Inclusion in the policy document of certain limited exemptions, such as for buildings without climate control systems; and
- Investigating inclusion in the policy of an Energy Star expectation for development that falls outside the certification triggers.

The Policy Committee generally concurred with the recommendations. The major item of input was to have an expectation of basic certification apply to 100 percent of rezoned residential units, rather than the 35 percent figure preliminarily recommended by staff. The Committee also reinforced the idea of providing for use of equivalent certification programs, and requested that the process for determining equivalency be stated in the policy. Finally, input was received that some flexibility in the administrative process be provided regarding the timing of initial submission of the program checklist.

Conclusion

Staff looks forward to any guidance that the Board may have on these categories, particularly noting areas of agreement or disagreement with staff's recommendations or the Policy Committee's guidance.


Allen J. Murphy, Jr.


Tamara A.M. Rosario

CONCUR:


Steven W. Hicks

AJM/TAMR/nb
ZSOrdUpdate_mem

Attachments:

Staff Memorandums and Minutes (posted electronically at <http://www.jccegov.com/agendas/index.html>)

1. Floodplain Overlay District Additional Information Memorandum
2. Signs Memorandum
3. Residential Districts Memorandum – Affordable Housing and Infill/Redevelopment
4. Residential Districts Memorandum – Cluster Overlay
5. Administrative, Procedural, and Submittal Items Memorandum
6. Fiscal Impact Study Guidelines Memorandum
7. Environmental Submittal Guidelines Memorandum
8. Non-Conformities Memorandum
9. Subdivision Ordinance Memorandum
10. Mixed Use Districts Memorandum
11. Form Based Code/Redevelopment Memorandum
12. Urban Development Areas Memorandum
13. Green Building Memorandum
14. Unapproved February 9, 2011, Policy Committee Meeting Minutes
15. Unapproved February 23, 2011, Policy Committee Meeting Minutes
16. Unapproved February 24, 2011, Policy Committee Meeting Minutes

MEMORANDUM

DATE: March 16, 2011
TO: Policy Committee
FROM: Sarah Propst, Planner
SUBJECT: Additional Investigation of Floodplain Overlay District

I. **Floodplain**

The Floodplain Overlay District is meant to minimize the loss of life or property by limiting or preventing development within the floodplain. The Floodplain Overlay District is a subcategory of the Development Standards portion of the Zoning Ordinance update. The scope of work for this section is to ensure compliance with the State regulations and increase clarification.

At the February 3rd Policy Committee meeting, the Committee requested that staff investigate several topics and return to the Policy Committee at a later date to present the findings.

II. **Discussion Items**

A. **Definition of "Substantial Improvement"**

1. The Policy Committee asked if the County had a definition for "substantial improvement" and staff was unable to make that determination during the meeting.
 - The Zoning Ordinance does contain a definition for "substantial improvement."

Sec. 24-2. Definitions.

Substantial improvement - Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage regardless of the actual repair work performed. The term does not, however, include either:

- (1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or
- (2) any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

B. **Flood Resistant Materials and Methods**

1. The Policy Committee asked staff to consider the addition of language to Sec. 24-595, Regulations for Construction, "New construction and substantial improvements shall be constructed with materials resistant to flood damage as well as construction methods and practices that minimize flood damage."
2. Staff consulted with the Division of Code Compliance on this topic. It was determined that the *Virginia Uniform Statewide Building Code (USBC)* requires construction and materials used in floodplains to be flood resistant.
3. Staff suggests adding a reference to the building code requirements in the floodplain overlay district regulations to increase visibility.

Sec. 24-588. Compliance and liability.

(a) No land shall hereafter be developed and no structure shall be located, relocated, constructed, reconstructed, enlarged or structurally altered except in full compliance with the terms and provisions of these regulations and any other applicable ordinances and regulations, *including, but not limited to the Virginia Uniform Statewide Building Code (USBC), the Virginia Industrialized Building Safety Regulations (IBSR), and the Manufactured Home Safety Regulations (MHSR).*

C. Increasing the Elevation of Buildable Sites Two Feet Above 100 Year Floodplain

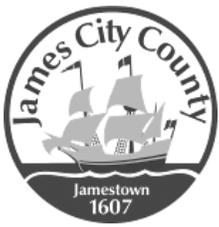
1. The Policy Committee requested that staff research the number of lots that could be impacted by this possible change to the Floodplain Overlay District.
2. Stormwater Division, Planning and Mapping have been researching this change. Please see the attached memo regarding the potential impacts of increasing the buildable lot elevation two feet above the 100 year floodplain and an explanation of the following suggested changes.
3. As outlined in the attached memo from Darryl Cook, Stormwater Division suggests applying the two foot increase in buildable sites to *riverine* floodplain districts, those above 7-1/2 feet. This means that sites which are in riverine floodplain districts would need to contain natural unfilled building sites at least two feet above the 100-year floodplain. Sites located in *tidal* floodplain districts, those at an elevation of 7-1/2 feet, would also be required to have a building site two feet above the floodplain but would be allowed to create a buildable site by filling the two feet above the 7-1/2 feet elevation. This would not allow filling in the floodplain (the area up to 7-1/2 feet) only the two feet of fill required to get to the 9-1/2 feet in tidal floodplain districts. This change would be reflected in Sec. 54-596. However, it should be noted, staff recommendations were provided at the Policy Committee's February 3rd meeting.

III. Conclusion

Staff recommends the inclusion of the reference to the *Virginia Uniform Statewide Building Code* in Sec. 24-588 to increase clarity regarding building regulations.

Attachment

1. Stormwater Division Floodplain Revisions Memo



Stormwater Division

MEMORANDUM

DATE: March 9, 2011
TO: John Horne, General Services Manager
 Fran Geissler, Stormwater Director
FROM: Darryl Cook, County Engineer
RE: Floodplain Ordinance Revisions

This information was prepared in response to questions from the Policy Committee meeting held on January 25th. The Committee wanted information on how much property would be affected if the Zoning Ordinance in Section 24-596 were changed to require that all new platted lots have a natural, unfilled building site two feet above the 100-year floodplain elevation. The current requirement is that the lots in the *riverine* floodplain (flood elevation greater than 7.5 feet) have a natural, unfilled site one foot above the 100-year elevation.

The major impact of this change would be to the *tidal* portions of the floodplain – those areas with a 100-year elevation of 7.5 feet. I did an analysis using information from the GIS system evaluating properties where the 10 foot contour extended beyond the RPA buffer and wetland areas as identified on the National Wetland Inventory (NWI) maps. The 10-foot contour was selected as the closest approximation of elevation 9.5 feet. This identified areas where the new elevation requirement presented an additional constraint on development of various properties. The following table presents the results of the analysis.

Property Analyzed	Area of Property (ac)	Impacted Area (ac)	% of Property Impacted
Neck-O-Land Road Area			
Gilley Farm	172.0	74.7	43.4
Peleg's Point	71.8	10.4	13.9
Jamestown Road			
2000 Jamestown Road	59.5	2.3	3.9
Gospel Spreading Farm	795.2	82.3	10.3
Chickahominy River			
2220 Bush Neck Road	722.3	106.1	14.7
6575 Menzels Road	118.9	29.7	25.0
6650 Menzels Road	592.7	55.9	9.4
1701 Forge Road	211.7	7.9	3.7
701/704 Arlington Island Rd	39.1	15.4	39.4
Totals	2783.2	384.7	13.8

The analysis should be considered approximate as all the information used is at a planning level – none of the information has been confirmed in the field and the 10-foot contour slightly overestimates the impacted area. However, it was a comprehensive look at all the properties that would be potentially affected in the *tidal* area. The analysis does show that the impact could be significant. The greatest impact to property with development potential is along Neck-O- Land Road. The Gilley property is the most affected property as a percentage of its developable property. The Gospel Spreading Farm has the most acreage affected.

Based on this analysis, I would not recommend that the requirement for a natural, unfilled building site be applied in the tidal portion of the floodplain. If the requirement had been in place at the time, most of Gatehouse Farms, Powhatan Shores, Chickahominy Haven, about one-half of Jamestown 1607 and one-third of Landfall could not have built. However, many of these projects have significant flooding and drainage problems resulting in substandard living conditions and safety issues during high water events. Many of the structures experience foundation and crawl space flooding even when the houses are properly elevated. Also, during high water events, access can be restricted for both residents and emergency service personnel resulting in safety problems. Some of these problems could have been overcome with properly placed fill, and better grading and drainage designs. Therefore, in lieu of requiring that all newly platted lots have a natural, unfilled building site two feet above the base flood elevation, the following requirement is recommended to improve conditions related to flooding and drainage on those lots by allowing fill to achieve the two foot increase above 100-year flood elevation required:

All lots created after _____ shall contain an adequate building site two feet above the base flood elevation. For lots in a riverine portion of a floodplain district the building site must be a natural, unfilled area. For lots in a tidal portion of a floodplain district, t, the building site can be either a natural, unfilled area or filled above the base flood elevation to achieve the proper elevation. Filling of the 100 year floodplain below the base flood elevation to create an adequate building site in a tidal portion of a floodplain district shall not be permitted. The feasibility of satisfying this requirement in the tidal floodplain may be limited by jurisdictional wetlands, the 100-year floodplain, site drainage patterns, potential impacts to Chesapeake Bay Preservation Areas and other physical planning constraints.

This reduces potential drainage and flooding problems in these low lying areas without strictly banning their development or violating the intent of the floodplain provisions.

Concerning increasing the elevation of the natural, unfilled building site in the *riverine* portion of the floodplain along Powhatan Creek, I did the same analysis. I looked for impacts to properties beyond the RPA and the wetlands. The majority of the floodplain that is not within either the RPA or wetlands is already developed. There were only three properties that were impacted – Warhill Inn, 4311 John Tyler Highway, and 1821 Jamestown Road (the parcel to the rear of Chanco’s Grant). In all these cases, the impacted portions of the properties all consisted of a sloping area so the increase would have no impact on the ability to develop these properties. So I would recommend that the elevation for a natural, unfilled building site be increased from one foot to two feet in the riverine areas.

MEMORANDUM

DATE: March 16, 2011
TO: Policy Committee
FROM: Melissa C. Brown, Zoning Administrator
SUBJECT: Exterior Signs

Introduction

Exterior signage is referenced in Sections 24-65 through 24-78 of the zoning ordinance. The intent of the ordinance is to regulate exterior signage in a way that ensures the equitable distribution of public space for the purpose of communication while protecting the health, safety and general welfare of the community. More specifically, these regulations should protect property values, protect the historic and natural character of the community, protect the safety of the traveling public and pedestrians, and promote the creation of an attractive and harmonious community.

Exterior signage directly contributes to perceived community character. Over time, new alternatives in material and lighting make it necessary to review existing regulations for consistency with purpose and compatibility with installation standards. Considering that some of these changes may benefit both the property owner and the community, staff has reviewed the existing regulations and recommends the following changes.

Discussion Items

1. History
 - March 1, 1969 – Adoption of Zoning Ordinance.
 - December 22, 1998 – Sign ordinance takes current form.
 - December 11, 2001 – Language added addressing signage in Industrial areas.
 - June 27, 2006 – Amended to add language for special signs in Mixed Use district.
 - June 22, 2010 – Amended to address building-face signage in Mixed Use district.

2. Comprehensive Plan GSAs, public input, and PC and BOS direction
 - The Comprehensive Plans states, “Signage should be of a scale, size, color and material to complement the historic character of the area.”
 - Members of the Planning Commission and Board of Supervisors have expressed interest in reviewing standards for directional signage and nontraditional illumination styles such as digital and animated signage to ensure that they are permitted on a very limited basis.
 - Considerable public comment has been received regarding the location of signage in and near roadways that contributes to visual clutter.

3. Review Section 24-70(d) Sign lighting for freestanding signs to ensure the incorporation of current industry materials and construction standards.
 - Section 24-70(d), Sign lighting, addresses illuminated signs on Community Character Corridors and in Community Character Areas. The ordinance permits external, ground-mounted lighting concealed by landscaping in these areas. Internal illumination is

Exterior Signs

Page 1

Last Revised: 3/11/2011

permitted with the Planning Director's approval when the sign is channel-lettered or back-lit.

- The sign ordinance was amended in 2006 to permit sign-mounted lighting in Mixed Use districts after receiving a request from the Newtown Development Review Board. Expanding the option for sign-mounted lighting to other zoning districts will provide additional options for sign design to the property owner and increase the degree to which light trespass can be addressed during permit review.
 - This type of lighting fixture is already permitted in other localities that share James City County's identity as a historic place such as the City of Williamsburg and the City of Charlottesville.
4. Review Section 24-73(d) Sign location for freestanding signs to ensure that the needs of the property owner are met while preserving community character.
- Section 24 – 73(d), *Signs on corner lots*, requires such signs to be no closer than 50 feet to the corner of the lot. This setback can be reduced by the Zoning Administrator when the owner can prove that visibility is not limited by the sign location. Under no circumstances can the setback be reduced to less than five feet except when the signage is located in a Mixed Use district. The ability to reduce the setback to less than five feet in all districts would permit greater sign visibility and reduce the need for additional signage on the roadway.
5. Review requirements for directional signage to ensure that the intended purpose is achieved while preventing visual clutter.
- Directional signage is addressed in Section 24-73(e), Special regulations for certain signs. There are three requirements that proposed signage must meet in order to qualify under special regulations.
 1. The sign must be necessary to permit vehicular traffic to locate distinctive places of historical significance, businesses, campgrounds, industries and residential areas or other activities which are located off state primary roads.
 2. The sign must indicate only the name, direction and distance to the business location.
 3. The sign cannot exceed ten square feet in area.
 - The Zoning Administrator can approve signs that meet these requirements at their discretion.
 - There are no limitations on number of signs or mounting structure referenced in this section. Further limiting the requirements by restricting the number of signs that may be requested and identifying the mounting structure that would be most appropriate will increase uniformity in the appearance of these signs and reduce visual clutter along the right-of-way.
 - Sign height should be addressed clearly as it relates to directional signage.
 - Staff recommends permitting no more than four directional signs to be granted by the Zoning Administrator and limiting the type of mounting structure to pole mounted signage.
6. Clarify definition for flashing signage to exclude digital, gas-pricing signage.

- Section 24-66, *Definitions*, defines a flashing sign as “an illuminated sign on which the artificial or reflected light is not maintained stationary or constant in intensity and/or color at all times when in use, and whose intermittent or sequential lights are used primarily to attract attention. Any sign which revolves or moves, whether illuminated or not, shall be considered a flashing sign. Signs which display only the time of day and temperature shall not be considered a flashing sign.”
- Section 24-73(m), *Digital and LED signage*, permits digital or LED signs that may be changed to reflect changes in gas pricing. There is some conflict between these sections since digital or LED signage is not excluded for this purpose.
- Staff recommends adding language to the exclusions exempting changeable, digital LED fuel pricing signs when permitted in accordance with 24-73(m).

7. Solutions and policy options

- Amend Section 24-70(d) to permit sign mounted lighting when bulbs, lenses and globes are not visible from the right-of-way and light is directed in such a way to not cast glare on adjacent properties.
- Amend Section 24-73(d) to permit reductions to less than five feet from the property line when the applicant can demonstrate that line of sight for motorists is not affected and such location maintains consistency with surrounding signage.
- Amend Section 24-73(e) to limit the number of directional signs to three and to limit the signs to pole mounted structures of no more than 7 feet in height.
- Add language to the exclusions listed in the definition for flashing sign exempting changeable, digital LED fuel pricing when permitted in accordance with 24-73(m).

8. Staff recommendation

- Staff recommends amending the ordinance to address the suggestions outlined above.

Conclusion

Staff recommends that the Policy Committee support the revisions proposed to Article II. Exterior Signs.

MEMORANDUM

DATE: February 9, 2011
TO: Policy Committee
FROM: Kathryn Sipes, Senior Planner
SUBJECT: Residential Districts

I. Introduction to Memo

A. The current Zoning Ordinance includes the residential districts of R-1, Limited Residential; R-2, General Residential; R-4, Residential Planned Community; R-5, Multi-family Residential; R-6, Low Density Residential, R-8, Rural Residential; and the Residential Cluster Overlay. Residential uses are also permitted in the A-1, General Agricultural, and MU, Mixed Use, Districts. The A-1, R-8, and MU Districts are being discussed under separate covers, due to the unique characteristics and objectives of those districts.

B. This memo discusses affordable housing and redevelopment/infill development, per the adopted methodology. A separate memo discusses the Cluster Overlay District. General recommendations affecting the R-1, R-2, R-4, R-5, and R-6 zoning districts will come before the Policy Committee at a later date. Staff anticipates further discussion with regard to open space and density requirements and calculations, and permitted uses in those districts.

II. Discussion Items

A. Affordable Housing

1. Description of the Issue:

The Housing Needs Assessment for James City County and Williamsburg, Virginia (Housing Needs Assessment), prepared in December 2007 by the Virginia Tech Center for Housing Research concluded the housing gap in James City County represented the need for approximately 1,950 additional homeowner units to meet the affordable housing needs of the population earning 80% or less of Area Median Income (AMI) as defined by the U.S. Department of Housing and Urban Development (HUD). The same study concluded the housing gap for affordable rental housing was approximately 1,485 units for the population earning 80% or less of AMI. HUD AMI figures which apply to James City County are those which HUD calculates for the Virginia Beach-Norfolk-Newport News Metropolitan Statistical Area (MSA).

During the 2009 James City County Comprehensive Plan (Comprehensive Plan) update process, there was much discussion among members of the public, Steering Committee, Planning Commission and Board of Supervisors regarding affordable and workforce housing. The topic is complicated, involving funding streams, financing mechanisms, changing market forces, and shifting demographics. The James City County Office of Housing and Community Development (OHCD) has been the primary County entity involved in meeting

the affordable housing needs of County residents. The list of assistance programs OHCD administers is included in the Comprehensive Plan.

The target population identified in the Comprehensive Plan is comprised of households earning between 30% and 120% of AMI. As discussed in the Comprehensive Plan, housing intended for households earning 30%-80% AMI could be considered “affordable housing” and housing intended for households earning 80%-120% of AMI could be considered “workforce housing.” The Comprehensive Plan noted definitions for “affordable housing” and “workforce housing” should be established. The updated AMI figures for 2010 are listed in Table 1. The AMI for a family of four was \$68,200 in 2010. By comparison, the AMI for a family of four was \$60,300 in 2006, \$64,100 in 2007, \$65,100 in 2008, and \$67,900 in 2009. This represents an average of just over 3% each year for 2006-2010 timeframe.

Table 1: 2010 HUD Income Limits by household size

	1 person	2 person	3 person	4 person	5 person	6 person	7 person	8 person
30% of median	\$14,350	\$16,400	\$18,450	\$20,450	\$22,100	\$23,750	\$25,400	\$27,000
50% of median	\$23,900	\$27,300	\$30,700	\$34,100	\$36,850	\$39,600	\$42,300	\$45,050
60% of median	\$28,650	\$32,750	\$38,850	\$40,920	\$44,200	\$47,500	\$50,750	\$54,050
80% of median	\$38,200	\$43,650	\$49,100	\$54,550	\$58,950	\$63,300	\$67,650	\$72,050
Median (AMI)	\$47,750	\$54,550	\$61,400	\$68,200	\$73,700	\$79,150	\$84,550	\$90,050
120% median	\$57,300	\$65,450	\$73,700	\$81,850	\$88,450	\$95,000	\$101,450	\$108,050

Source: HUD 2010 Income Limits

A report published by the Virginia Housing Development Authority (VHDA) in October 2008 entitled Virginia Housing Trends (Attachment 1) provides some insight into trends and forecasts regarding the age, mobility and financial means of the population relative to the existing housing stock. As housing needs change with age, the report contends more attention should be “...paid to the critical role shifting demographics play in shaping the magnitude and nature of housing demand.” Given the aging of the Baby Boomer generation, the coming housing cycle will look different from the cycle just ending, where demand was dominated by affluent, middle age Boomers who “traded up” to larger homes. The report claims the “trade up” era is over and the new housing cycle will raise demand for first time homebuyers and empty nesters (i.e. smaller homes). The report concludes today’s housing stock in Virginia is not adequate to meet the emerging needs of the population. Except in the fastest growing regions, existing apartments and starter homes that were vacated by Baby Boomers “trading up” to newly built larger homes, served much of the needs of

Generation X. Now, as Generation X replaces Baby Boomers in the “trade up” market, and Generation Y forms independent households, Virginia faces an over-supply of larger “trade up” homes and a shortage of smaller affordable units. This is attributed to the fact that in the past, housing demand was concentrated in the age group with the highest income. Now the demand is shifting to age groups with more limited means. James City County already had a shortage of homes meeting the definition of “affordable” or “starter homes” so the situation may be exacerbated locally.

2. History:

In the absence of an official policy or mandatory measures, voluntary proffers have been offered for rezoning cases where residential units were included in the development. This proffer system yielded 661 units at prices lower than market rate between November 2000 and March 2008; at least 400 of the 661 have been constructed or are currently under construction. However, the proffers from project to project have been inconsistent. For example, the proffered units have been referred to as “affordable”, “workforce,” “restricted,” or “mixed cost” depending upon the specific project; have been single family attached, townhouses, apartments or single family detached depending upon the project; have been targeted to households with 50%, 60%, or 80% of AMI depending upon the project; and have included sales prices of \$95,000 to \$250,000, depending upon the project. The two apartment projects (The Station at Norge and Longhill Grove Apartments) included a provision to set aside units for families with incomes not exceeding 60% of AMI for a period of 50 years and 15 years respectively. Please see table on page 4 for additional facts regarding proffered units.

Using the same calculation for housing prices based on income as used in the Comprehensive Plan, Table 3 shows how AMI translates into household income and possible purchase prices in 2010 dollars. By way of comparison, proffered sales prices for the cases listed above are converted to 2010 dollars in the last column of Table 2, using the Marshall & Swift Index.

Table 3: 2010 Affordable House Prices for James City County

% AMI	FAMILY INCOME	TARGET HOUSE PRICE*
30%	\$20,450	\$61,400
50%	\$34,100	\$102,300
60%**	\$40,920	\$122,760
80%	\$54,550	\$163,650
100%	\$68,200	\$204,600
120%**	\$81,840	\$245,520

Source: HUD 2010 Income Limits

***A multiplier of three was applied to arrive at the target house price. Prices are also applicable to the entire Norfolk-Virginia Beach-Newport News MSA.**

****Calculated by Planning Staff by multiplying the 100% figure provided by HUD by appropriate % and rounding to the nearest \$50, per HUD’s methodology; not provided in HUD data.**

Case Number	Case Title	Affordable Units*	Workforce Units*	Restricted Units*	Mixed Cost Units*	Unit Type	Total Units	% of Total Units	Price at or below	Converted to 2010 \$	
Z-0002-2007	Chestnut Grove**	8	0	0	0	Townhouse	40	20%	\$135,000	\$138,780	
		0	0	8	0	Townhouse		20%	\$165,000	\$169,620	
Z-0004-2007	Stonehouse	0	125	0	0	Residential	3646	3%	\$250,000	\$257,000	
Z-0007-2007	Powhatan Terrace	0	0	3	0	Townhouse	36	8%	\$195,000	\$195,000	
Z-0005-2006	New Town Sec. 7 & 8**	0	0	12	0	Residential	400	3%	\$154,000	\$160,622	
Z-0009-2006	Ironbound Square 2	20	0	0	0	Single Family	39	51%	80% AMI		
Z-0002-2005	Ironbound Square 1	67	0	0	0	Senior	67	100%	50% AMI		
		3	0	0	0	Single Family	5	60%	80% AMI		
Z-0010-2005	The Villages @ White Hall (La Grange)	0	0	0	26	Single Family Attached	79	33%	\$185,000	\$219,225	
Z-0016-2005	New Town Sec. 9 (Settler's Market)	0	0	0	8	Residential	279	3%	\$154,000	\$160,622	
Z-0019-2005	Jennings Way**	5	0	0	0	Townhouse	85	6%	\$135,000	\$140,805	
		0	0	5	0	Townhouse		6%	\$160,000	\$166,880	
Z-0006-2004	Lightfoot Mixed Use***	12	0	0	0	Residential	244	5%	\$110,000	\$130,350	
		12	0	0	0	Residential		5%	\$135,000	\$159,975	
Z-0014-2004	Pocahontas Square**	34	0	0	0	Townhouse	96	35%	\$110,000	\$130,350	
		38	0	0	0	Townhouse		40%	\$155,000	\$183,675	
Z-0013-2003	Michelle's Point**	11	0	0	0	Single Family	110	10%	\$110,000	\$139,920	
		11	0	0	0	Townhouse		10%	\$99,300	\$126,310	
Z-0015-2003	The Station at Norge	104	0	0	0	Apartments	104	100%	60% AMI		
Z-0005-2002	Longhill Grove Apartments	170	0	0	0	Apartments	170	100%	60% AMI		
Z-0003-2001	New Town Sec. 2 & 4***	15	0	0	0	Residential	803	2%	\$105,000	\$133,560	
		25	0	0	0	Residential		3%	\$140,500	\$178,716	
Z-0003-2000	Ironbound Village	5	0	0	0	Townhouse or SFD	30	17%	\$95,000	\$133,665	
		10	0	0	0	Townhouse or SFD		33%	\$110,000	\$154,770	
TOTALS	16 cases	550	125	28	34		6233				
		Total of 661 units									
*terms assigned by applicant for each specific project											
**soft second mortgages included in the proffers											
***soft second mortgages offered, but not dictated by proffers											

3. Comprehensive Plan, Sustainability Audit, Public Input:
 - *Strategy H3, Increase the availability of affordable and workforce housing, targeting households earning 30%-120% area median income as established by the U.S. department of Housing and Urban Development (HUD). Fifteen actions follow, including:*
 - *H 3.1, Review all existing residential districts in the Zoning Ordinance to consider additional bonuses and incentives for the provision of affordable and workforce housing, as appropriate.*
 - *H 3.7, Develop and adopt an affordable housing policy or affordable dwelling unit policy which states the County’s definitions, goals, and expectations for providing affordable and workforce housing in developments requiring legislative approval.*
 - *H 3.10, Accept cash contributions or land from developers of residential and non-residential projects, including by-right development, into a County housing fund or create a housing trust fund for this purpose.*
 - *H 3.11, Consider ordinance amendments that provide both mandatory and voluntary provisions for affordable and workforce units, such as an affordable housing overlay district, and/or inclusionary zoning.*
 - *H 3.12, Develop a fast-track subdivision, site plan, and building permit process for qualified affordable and workforce housing developments.*
 - *H 3.13, Consider a program to waive, reduce and/or rebate development fees for qualified affordable and workforce housing developments.*
 - *H 3.14, Consider a shared equity or right of first refusal policy and/or lengthen the term of soft second mortgages for affordable and workforce units.*
 - *H 3.15, Promote the full integration of affordable and workforce housing units with market rate units within residential developments and throughout the Primary Service Area.*
 - *Sustainability Audit (SA), Adopt universal access standards for people of all races, all incomes, handicapped persons, the elderly, and families with children.*
 - *SA, Adopt standards for new development to be affordable to low-moderate income persons, including affordable for-sale and rental housing. Provide a portion of total housing units as rental units.*
 - *SA, Provide housing near jobs at a price the employees can afford.*
 - *At a Planning Commission Public Forum in September 2010, the Greater Williamsburg Chamber & Tourism Alliance offered support for the provision of workforce housing in James City County, citing research that 40% of James City County workers did not live in the Historic Triangle, due in part to housing prices being out of reach for many workers in the retail and hospitality industries.*

4. Policy Options:

State Code permits localities, including James City County, to adopt an Affordable Dwelling Unit Ordinance. Section 15.2-2305 of the Code of Virginia (Attachment 2) prescribes the requirements and options for localities. Specifically, State code permits up to a 30% density increase in exchange for affordable units comprising up to 17% of the total number of units in the development.

Alternatively, James City County could adopt an Affordable Housing Policy (or Workforce Housing Policy) and apply it to legislative cases. Currently the County has the Cash Proffer Policy for Schools and the Streetscape Guidelines Policy, among others. The Affordable Housing Policy would be similarly applied, while allowing flexibility when deemed appropriate by the Planning Commission and Board of Supervisors.

Staff acknowledges the changes in the economy in recent years, most notably the declining housing values. Coupled with the projected shifts in population due to aging and mobility forecasts, it remains the case that additional housing opportunities for the target population will be needed locally at the same time it remains difficult to quantify the specific amount of affordable and/or workforce housing needed in the community. As the County does not currently have an official policy guiding expectations for affordable and/or workforce housing, staff finds it most appropriate to develop a policy at this time to provide more predictability for all parties involved and to encourage continued additions to the affordable and/or workforce housing stock. Should the policy not produce the desired results, the County could explore a more rigid ordinance in the future.

5. Staff Recommendation:

Staff proposes a policy that addresses the following:

- a) Distinction between or definitions for affordable versus workforce units- As introduced in the Comprehensive Plan, housing targeting households earning 30%-80% AMI could be defined as "affordable" and housing targeting households earning 81%-120% AMI could be defined as "workforce." As a side note, it is the experience of OHCD that households earning 30%-60% AMI are typically in the rental market. Therefore, for homeownership opportunities "affordable housing" could be households earning 60%-80% AMI.*
- b) Desired percentage (or range) of affordable and/or workforce units to total residential units. Staff research concludes a range of 10%-30% is most common. See item c) below.*
- c) Stated desire for mixed cost neighborhoods. Per the Comprehensive Plan, the desired outcome should be neighborhoods with market rate, workforce AND affordable units, as well as neighborhoods that contain a variety of unit types. Staff seeks guidance on the desired mix for each as well as whether it will be acceptable for proposed developments to include only workforce OR affordable units, rather than a mix of both.*
- d) The integration of affordable and/or workforce units with market rate units. Affordable and/or workforce units should be fully integrated in the development with regard to location, architectural detailing, quality of materials, and general appearance.*
- e) Provision for reduced cash contribution for schools for affordable and/or workforce units. The adopted Cash Proffer Policy for Schools contains no exemption for affordable or workforce units. However, the Board has often*

accepted proposals from developers to proffer such cash contributions for the market rate units only. A formal policy could allow for a reduction of any amount (30%? 50%? 75%? 100%?) in the contribution for affordable and/or workforce and/or universally designed units.

- f) Guidelines for terms with regard to soft second mortgages, as well as provisions for resale or re rental of units, including establishing right of first refusal to OHCD. Soft second mortgages have been included in proffers for time periods as low as 10 years and as high as 25 years. An acceptable range should be established. Additionally, upon resale or re renting of a unit to a non-qualifying household, that unit falls out of the inventory of affordable/workforce units in the County. Currently the only mechanism to retain units past the initial occupant is if the resale is to another qualifying household. Soft second mortgages provide an incentive for sellers to sell to another qualified household, but only if the term of the soft second mortgage has not yet expired.*
- g) Provision for cash contribution to a JCC Housing Fund to be used to increase the supply of affordable and/or workforce units in the County. Should the County choose to accept cash contributions in lieu of affordable/workforce units being constructed, the payments should go into the Housing Fund.*
- h) Establishment of OHCD as JCC designee for affordable and/or workforce housing. OHCD currently acts as the County contact and primary housing resource. Identifying them as such formalizes and clarifies the process.*

B. Redevelopment/Infill Development

1. Description of the Issue:

The current zoning districts contain language more easily applied to new development (with regard to open space, perimeter buffers, and lot configuration, for example) than to redevelopment. For parcels that have been previously developed it is often difficult for the site to be re-designed in a manner that satisfies all current ordinance requirements and meets the developers' proposed use(s). For older neighborhoods, improvements to infrastructure such as public water and sewer, roads, and stormwater drainage are often needed. Additionally, improvements are also often needed for the existing structures, either for adaptive reuse or to simply improve the function of the existing use(s). This can include the need to resubdivide the parcels. For projects involving existing residential units, the existing properties can be legally nonconforming relative to size and configuration, making it difficult to undertake a project that aims to a) preserve and/or rehabilitate existing residential units; b) improve public infrastructure such as roads, drainage, and public utilities; and/or c) create additional affordable housing units or uses compatible to the existing neighborhood. In these cases, any redesign of the site initiates the need to meet all current code requirements, including lot area, lot width and setbacks. If, due to the revised site layout, lots become less conforming than they were previously, the property owners must request variances from the Board of Zoning Appeals (BZA). Multiple properties can request variances as a related group of requests; however, the BZA may find it

difficult to approve the requested variances if the associated hardship was created consciously, as in the case of redesigning/redeveloping the neighborhood. Even if the BZA supported the project and approved the requests, the extra step in the process can complicate the project and schedule.

In order to obtain the necessary flexibility, projects often attempt to rezone to MU, Mixed Use, or to apply the Residential Cluster Overlay. However, the intent of the project does not always meet either the intent or the expectations of those districts. Despite the benefits being proposed, these cases can present complicated and valid debate at the scheduled public hearings. For projects pursuing Mixed Use zoning, the expectation is that there will be a mix of uses in the resulting development, with a possible reduction in commuter traffic generated as compared to more typical single use development. For projects pursuing a Residential Cluster Overlay, the expectation is that the resulting development will be a primarily residential neighborhood that incorporates higher standards of open space, minimizes environmental impacts, and/or provides mixed cost or affordable dwelling units. In both cases the County allows more flexibility with regard to lot size and configuration, unit types permitted, density, and setback requirements in exchange for the benefits proposed.

Both the MU and Residential Cluster Overlay sections of the ordinance tend to favor new development and are written to imply that a greenfield site is the subject parcel. While there is no language in the ordinance precluding these districts from being applied to previously developed parcels, there are practical limitations to applying these districts to redevelopment sites. For example, the Residential Cluster Overlay requires a perimeter buffer of at least 35' along the perimeter property lines of the development. Waiver provisions in the ordinance do not allow for the consideration of existing structures. Open space requirements can also be difficult to meet, assuming an undeveloped parcel can be designed from scratch in a way that accommodates the desired amount and utility of open space.

Regarding the perimeter buffer in a Residential Cluster Overlay, current waiver provisions could prove beneficial for an infill development with a project area of less than five (5) acres AND a majority of units dedicated to affordable housing. Any proposal including more than five (5) acres, however, could have difficulty under the current ordinance language.

There are various definitions of "redevelopment" and "infill development." "Redevelopment" often applies to the replacement or reuse of existing structures or previously developed sites to accommodate new development. "Infill development" often refers to new development on previously undeveloped property inside the community core, where public infrastructure is already in place. While distinctly different, for the purposes of this discussion, the two present similar benefits and similar challenges and can be used and applied

interchangeably. In either case, the current zoning ordinance language presents challenges that serve as a disincentive to proceed. Revised ordinance language could distinguish between the two if necessary or appropriate.

2. History:

One example is the Ironbound Square Redevelopment Project across from New Town. In this case, the JCC Office of Housing and Community Development (OHCD) served as the developer on the project, proposing replacement and rehabilitation of existing homes in the existing neighborhood, widening and extension of public streets, improved drainage, improved playground and recreation facilities, and re-subdivision of parcels. New amenities proposed included a walking trail, office buildings, senior apartments, and additional affordable dwelling units (both attached and detached units). Due to property acquisition challenges and logistics, and in part due to a construction schedule driven by state and federal funds being used for the project, the project was broken into phases and rezoned in those phases rather than as one large project area. As a result, certain phases of the project contained a mix of uses, raising no debate for a rezoning to the MU district, while subsequent phases containing only residential units were challenged during the rezoning process. Other issues were also involved, but the fact remains that no alternative tools are available in the Zoning Ordinance to accomplish the desired product.

6. Comprehensive Plan, Sustainability Audit, Public Input:

H 1.6: Promote infill residential development by creating provisions in the Zoning Ordinance that allow for appropriate alternative lot sizes, setbacks, and densities. Other actions are also related to this effort:

- H 1.2, Promote residential development that provides a balance of unit types and price ranges, open space preservation, and recreational amenities, and supports walkability and bicycle travel both internally and to nearby destinations.*
- H 1.7, Promote a scale and density of residential development compatible with adjacent and surrounding land uses, supporting infrastructure, and environmental conditions.*
- H1.8, Locate moderate density residential development, including those within areas of appropriate Mixed Use designations, in proximity to employment centers and service destinations.*
- H 2.1, Support the efforts of private and non-profit entities to improve the condition of the County's housing stock.*
- SA, Promote proximity of new development to existing development by prioritizing infill development, including brownfields, greyfields, underutilized, and vacant urban land over Greenfield development. Infill is the development of vacant, outdated or under-used land that is surrounded around a majority of the site perimeter by developed areas. Utilities should be available to the site or if utilities need to be brought to the site, the site is within or contiguous with existing service areas.*

- SA, Development concurrent with available and sufficient roads, utilities, and services.
- SA, Use existing, underutilized, infrastructure prior to extending utilities to serve new areas.
- SA, Encourage building reuse and adaptive reuse.
- SA, Preserve and/or reuse historic structures, schools, vacant commercial buildings or existing housing.
- SA, Encourage brownfield redevelopment.
- SA, Encourage redevelopment or infill development to transform greyfield sites into mixed-use pedestrian-oriented development.
- SA, Encourage development in areas currently served by public utilities.
- SA, Ensure residential setbacks and garage orientation are designed to a human scale.
- SA, Housing should be in close proximity to jobs.
- SA, Compact development with smaller lot sizes and setbacks to facilitate preservation of common open space on a community level.
- SA, Infill development should respect the established built form of historic neighborhoods through compatible scale and building form.
- On behalf of the Peninsula Housing & Builders Association, Robert Duckett spoke at a public forum in support of zoning changes that allow more efficient use of the land inside the PSA to promote Smart Growth principles, mixed use development, and mixed cost residential development.

3. Policy Options:

The ordinance can be revised to provide flexibility with regard to specific requirements in exchange for specific public benefits being incorporated into the design proposal. The amount of flexibility and specific benefits sought should be discussed during the zoning and subdivision ordinance update process and be clearly defined; at this point in the process staff provides the attached list (Attachment 3) for discussion.

Staff research finds two approaches are most often used by other localities. One is to identify specific redevelopment areas targeted for redevelopment activity. These redevelopment areas get defined by distinct boundaries and redevelopment plans specific to each get adopted by the local elected officials. The zoning ordinance is then amended to include language specific to each redevelopment area. This approach is most often used in urban settings where abandoned structures and/or older industrial sites can be readily identified. This approach is often tied to the availability and requirements for federal and/or state funding that necessitates identification of sites that meet the definition of blight, as an example.

The other approach commonly used is rezoning the property involved in the specific proposal. This would result in a new redevelopment/infill/neighborhood preservation district that would likely be similar to our existing Mixed Use or

Planned Unit Development districts but with provisions tailored to the particular needs of these types of development, including reduced requirements in specific areas (such as the amount of required open space and/or perimeter buffers) to accommodate smaller sites and the ability to design the site around existing structures or uses that are intended to be preserved.

The notion of identifying specific redevelopment areas does not seem to meet the County's needs at this time. While certain parcels have been highlighted in the recent past, either through the comprehensive planning process or as a result of conceptual plans received, the County has not begun the process of formally identifying sites for redevelopment or infill. Pursuing this approach would likely prove to be lengthy and cumbersome, unnecessarily delaying the desired outcome of creating flexibility in the ordinance language.

4. Staff Recommendation:

Staff recommends creating a new district in the Zoning Ordinance to accommodate and encourage redevelopment proposals. The existing Planned Unit Development (PUD) district in the Zoning Ordinance can be used as a model, with modifications to achieve the desired outcomes. While the topic of this memo is residential districts, the new district can accommodate both residential and commercial redevelopment and infill, and staff recommends that it does so. Staff seeks input regarding potential objectives and provisions of the new ordinance based on material presented herein.

III. Conclusion

Staff recommends the creation and adoption of an affordable housing policy that clearly states the County's expectations with regard to including affordable and workforce units in residential development proposals. Staff also recommends the creation of a new district in the Zoning Ordinance with the intent of facilitating and encouraging redevelopment and infill development. Staff requests input on matters presented in this memo before moving forward with drafts of legislative language.

Accommodating the Housing Needs of Generation Y

IN THE COMING HOUSING RECOVERY, shifting demographics will fundamentally change housing market dynamics. The needs of middle-aged “trade-up” homebuyers, who dominated the market during the recent housing boom, will fade as the main driver of market demand. Instead, the needs of the maturing Generation Y—the children of the Baby Boom—will become a key factor in the marketplace. In recent years, this large demographic group, born between 1977 and 1997, has had a substantial impact on college enrollments and student housing needs. Soon, their entry as young adults into the broader housing market will generate substantial need for new affordable rental housing and starter homes that will reshape residential development patterns in both urban and suburban markets.

Demographic change shapes housing demand

AS A RESULT OF THE RECENT housing boom and bust, much attention has been focused on the impact mortgage lending has had on new home construction and overall conditions in the housing market. Certainly, access to mortgage capital under favorable terms and conditions has a profound effect on housing costs and housing demand for owners and renters alike. However, too little attention has been paid to the critical role demographics

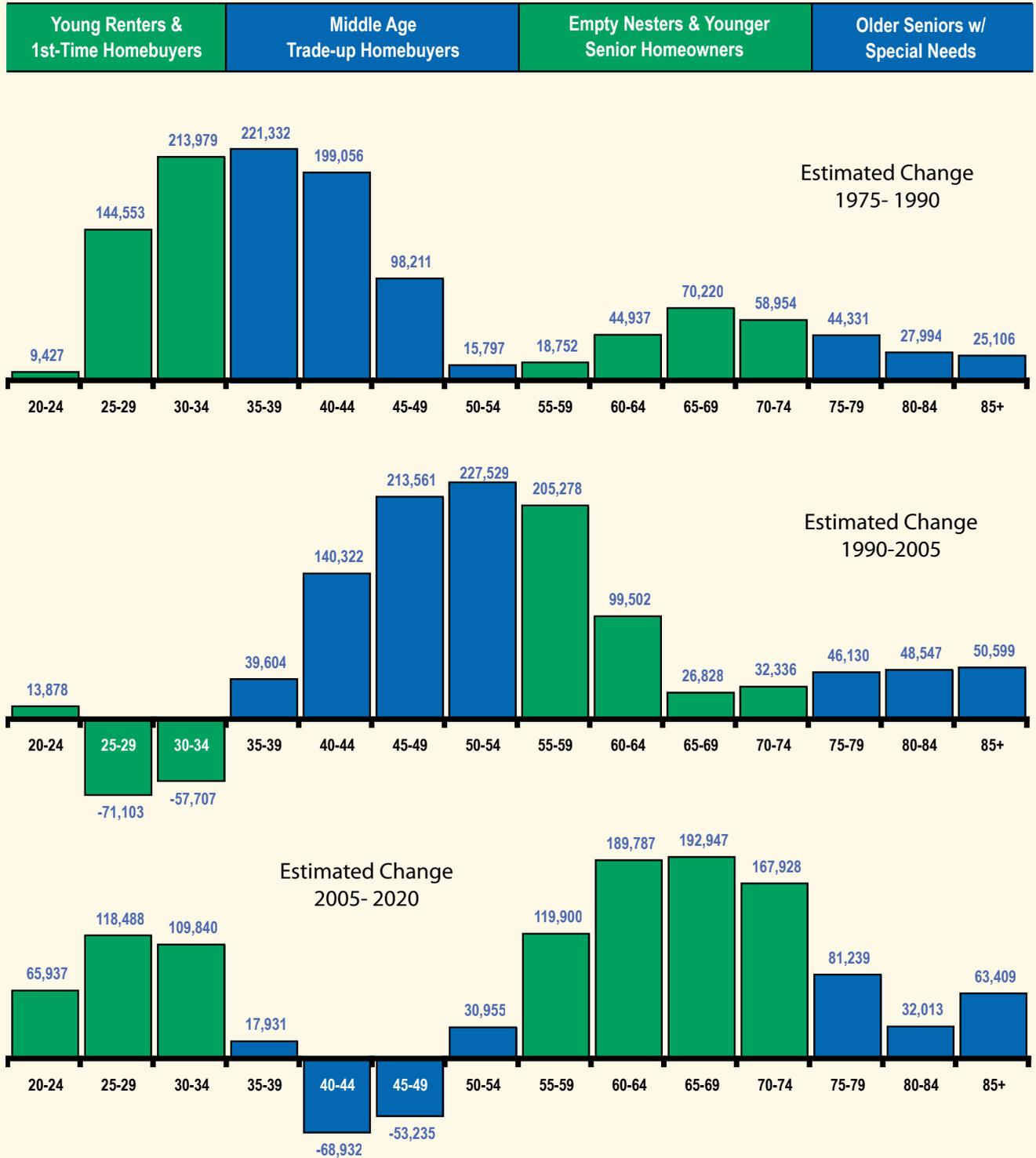
play in shaping the magnitude and nature of housing demand.

Housing demand results from both new household formation, as well as shifts in residence that occur as households age through stages of life in which housing needs and available resources change. In a somewhat simplified way, these life stages can be categorized into four broad age groups each with different housing needs.

Housing Needs by Age Group

- **Young households** (under age 35). Most of this age group has moderate income, and are predominately renters or first-time homebuyers in need of affordable starter homes.
- **Middle age households** (ages 35 to 54). This age group is mainly made up of larger households that need more space. Many have gained sufficient income to “trade up” to larger homes.
- **“Empty nesters” and early retirees** (ages 55 to 74). This age group is predominately homeowners who mostly choose to age in place in their current homes.
- **Older seniors** (age 75 and older). For this age group, maintaining their existing homes may become burdensome and, if so, they may seek alternative senior housing options.

Virginia's Adult Population by Age



Source: U.S. Census and estimates based on Census Bureau and VEC Virginia population projections

Chart 1

The coming housing cycle will look very different from the one now ending

HISTORICALLY, THE HOUSING MARKET has expanded and contracted in long-term cycles. In the post-WWII era, these market cycles have been accentuated by

the substantial difference in size of successive generations. This has caused housing demand to be disproportionately concentrated among particular age cohorts, for example Baby Boomers born between 1945 and 1964, and now their children — the “echo boomers” (Generation Y). As these large cohorts move through the life cycle, they stimulate substantial demand for certain types of housing. In contrast, smaller age cohorts—e.g., the “baby bust” (Generation X) born from 1965 through 1976 — cause demand for certain types of housing to wane. Awareness of the ebb and flow of households in different age groups is essential to understanding and responding to changing housing demand. (See Chart #1.)

The recent boom in the construction of “Mc Mansions” was driven as much by the concentration of housing demand among middle age Baby Boomers with older children, who had both the income and the need to “trade up” to larger homes, as it was by the easy credit available in the mortgage market. The peak of that demand coincided with the peak in new home sales. That demand will now steadily diminish for the next decade, as a much smaller group of Generation X middle agers replaces the Baby Boom generation — which is now aging into retirement.

Just as the 1990 housing recession left behind, in some markets, a glut of starter homes, the current downturn is now leaving behind a surplus of larger houses. The 15-year housing market trade-up cycle that lasted from 1990 through 2005 looked very different from the previous starter-home cycle that ran from the mid 1970’s through the 1980’s. In all likelihood, the new housing market cycle that will emerge with a housing market recovery will look very different from the trade-up market we have recently experienced.

BY AND LARGE, Baby Boomers have now completed the purchase of their “trade up” homes, and have entered a phase of life marked by very low rates of household mobility. Mobility is high among young households, but

Baby Boomers are now entering a stage of life marked by low mobility

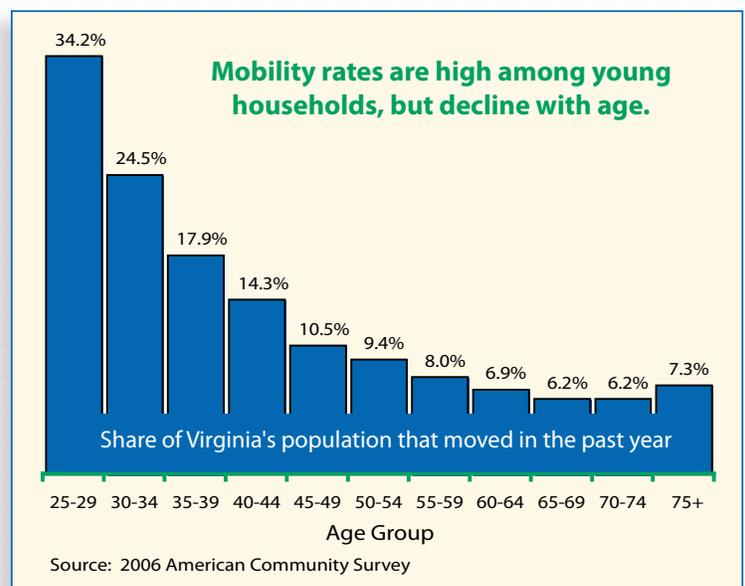


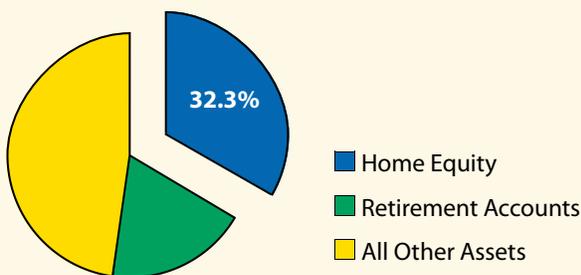
Chart 2

declines steadily with age, reaching a low point among households age 55 to 75, before rising moderately among older seniors as increasing frailty leads to consideration of alternative housing choices. (See Chart #2.)

There has been great anticipation of the increased housing demand to be generated by the large cohort of retiring Baby Boomers. It was assumed that they would be financially able to actualize their desire to “trade down” to new homes with less upkeep and/or to purchase second homes for future retirement living, due to their relatively high incomes and substantial built-up home equity.

The severity of the current housing downturn and its negative impact on home equity, now calls these assumptions into question. In the near term, with a substantial oversupply of larger homes in the market, will large numbers of Baby Boomers make these housing choices? Or, will they instead do as their parents did and age in place in order to rebuild the equity they counted on to help fund their retirement years? (See Chart #3.)

Home Equity Makes up the Largest Single Share of Household Net Worth.



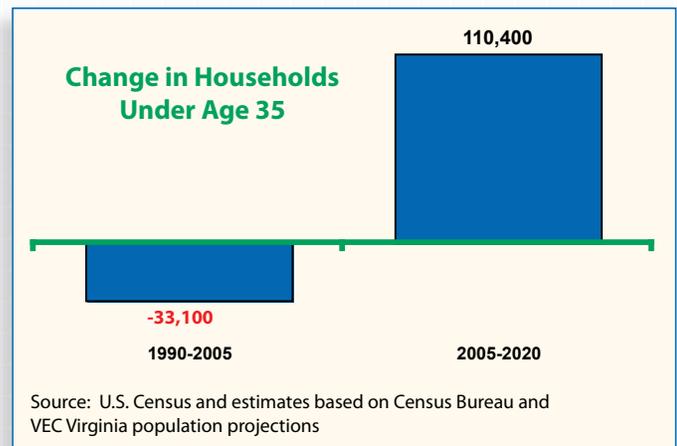
Source: U.S. Census Bureau, Survey of Income and Program Participation, 2000

Chart 3

BETWEEN 2005 AND 2020, the 402,200 projected increase in

households age 55 to 74 is more than three and a half times the 110,400 projected increase in households under age 35. Nonetheless, when differential mobility rates are factored in, and consideration given to the fact that the Baby Boomers are already adequately housed to meet their current needs, then the likely largest net increase in housing demand will come from young households. While less numerous than

In the coming housing cycle, demand for new housing will be driven by younger households



Source: U.S. Census and estimates based on Census Bureau and VEC Virginia population projections

Chart 4

their parents’ generation, Generation Y is far larger than Generation X which preceded it. This will result in a substantial increase in new household formation as Generation Y completes college, enters the workforce and forms new independent households. Whereas households under age 35 declined by 33,100 in the 1990 to 2005 housing cycle, they are expected to increase by 110,400 between 2005 and 2020. (See Chart #4.)

The number of households headed by people age 75 and older will also continue to increase rapidly. The growth in older senior households is projected to increase from 82,700 in the 1990 to 2005 housing cycle to 106,700 between 2005 and 2020. However, as with empty nesters and early retirees, the mobility rate for this group is far lower than for younger households, and so their net demand for new housing will be much smaller than for younger households.

The current housing stock is inadequate to meet the needs of younger households

RELATIVELY LITTLE STARTER HOME AND NEW APARTMENT CONSTRUCTION OCCURRED in the

recent housing cycle. Generation X, because it was smaller than the preceding Baby Boom generation, created a fairly limited impact on new housing construction except in rapidly growing regions. Existing starter homes and apartments vacated by Baby Boomers as they moved up the housing ladder were generally adequate to meet Generation Xers' needs. Instead, new housing construction primarily focused on the substantial increased demand among Baby Boomers for new, large trade-up homes. Consequently, there is now an undersupply of apartments and starter homes, and an oversupply of expensive trade-up homes relative to the increased demand among young households that will be experienced in the coming housing cycle.

As Generation Y enters the housing market, the existing stock of apartments and starter homes will not be adequate to meet their needs. The number of homes and apartments freed

up by Generation Xers will not be sufficient to meet the demand generated by the larger generation following them. Except in very slow growing regions with net out-migration of young households, new affordable starter home and apartment construction will be required. In rapidly growing regions such as Northern Virginia, with high rates of natural increase and in-migration, considerable new affordable housing construction will be required to prevent substantial housing shortages.

WHEREAS MIDDLE AGE HOUSEHOLDS are overwhelmingly homeowners, young households remain

predominately

renters. Increased production of quality, affordable rental housing will be needed over the next decade to satisfy the needs of new Generation Y households entering the housing market. (See Chart #5.)

Quality, affordable rental housing will be especially needed

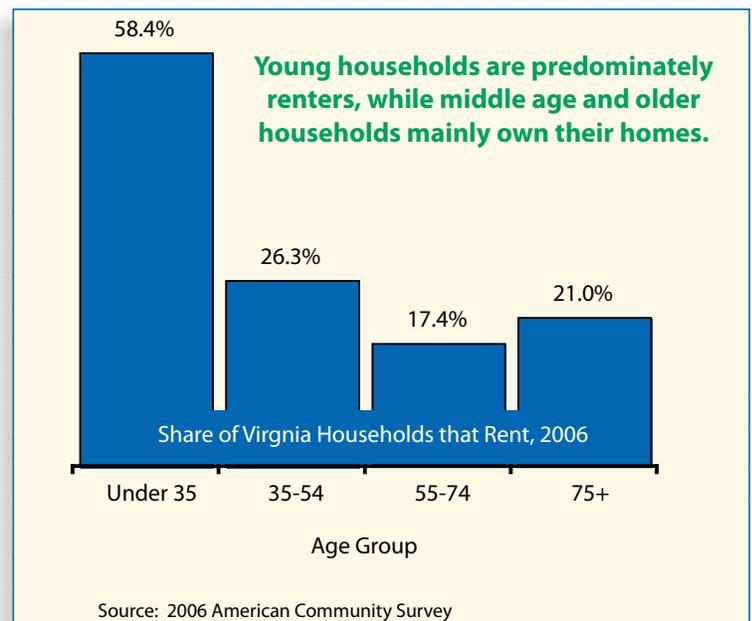


Chart 5

This need will be accentuated by the greater difficulty Generation Y may face in becoming homeowners in contrast to Generation X or their Baby Boom parents. Today, young households are economically stressed compared to older households. Their earnings are lower, and they carry high levels of debt. (See *Chart #6*.) The significant tightening of credit standards and down payment requirements that has resulted from the subprime lending bust, may delay home purchase by Generation Y households. That, in turn, will increase the magnitude and duration of Generation Y's impact on rental housing demand.

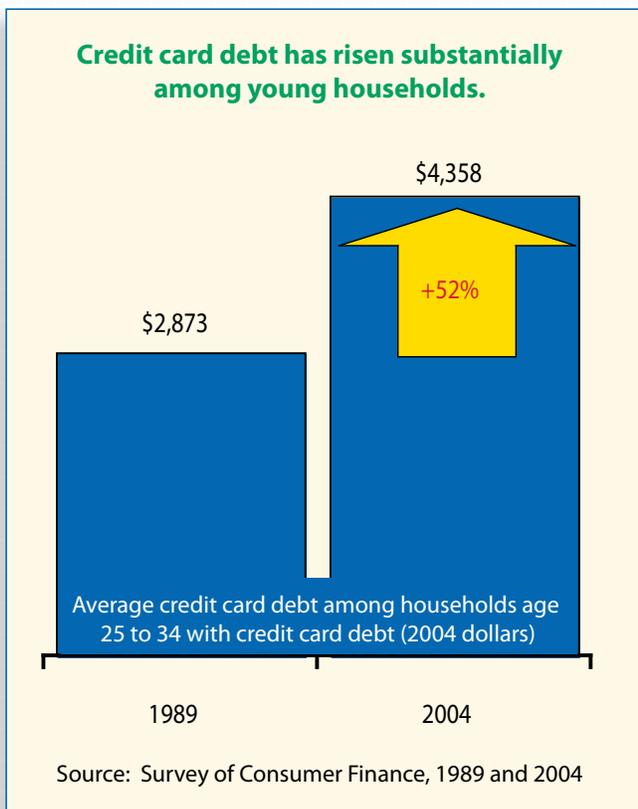


Chart 6

HOUSING AFFORDABILITY WILL BECOME A KEY issue for local communities in attracting

Housing affordability for young workers will challenge local economic development

and retaining an adequate workforce. In the most recent housing cycle, increased housing demand was heavily concentrated among age groups with the highest household income. However, in the coming cycle, the opposite will be true. A far higher share of net household growth, and a large share of the net increase in housing demand, will be among younger and older households whose incomes are less than the overall median. Localities that fail to address the affordable housing needs of young households will see their workforce stagnate as Baby Boomers retire and young workers seek more attractive living environments elsewhere.

For a generation, suburban land use planning has accommodated new household growth through low density large lot zoning. It also has helped pay for the infrastructure costs created by sprawl through significant proffers and other residential development fees. This land development management system was able to function due to the substantial construction of large, high-value, trade-up homes for which demand is now waning.

For the next generation, net household growth will be focused on age groups of more limited means — especially new young households seeking more

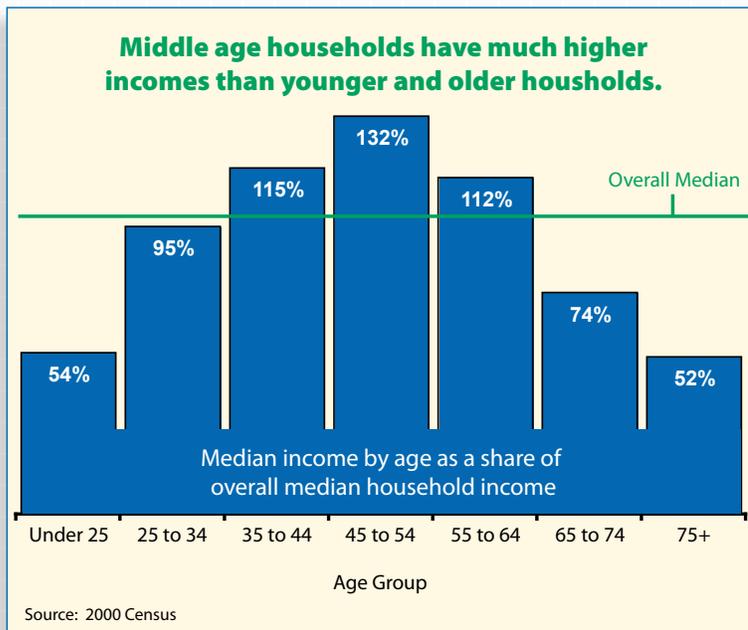


Chart 7

affordable rental and home purchase opportunities. (See Chart #7.)

This transition in housing needs will be made more difficult by the recent run-up in energy costs and shortage of funding for new road-building projects. Traffic congestion and the high cost of commuting are now making distant exurban home construction a poor alternative for young urban and suburban workers seeking housing they can afford.

New local strategies are needed to meet the needs of Generation Y

MEETING THE NEEDS OF GENERATION Y WILL REQUIRE local governments to again focus

on the development of affordable housing opportunities. In particular, metropolitan localities will need to rethink their land use

planning paradigms in order to create new opportunities for higher density housing construction. Likewise, as the net increase in housing demand shifts from middle age to younger households with more limited incomes, local governments must partner with the home building industry to reduce development costs while maintaining the long-term quality of the housing stock and the vitality of local communities. In the near term, the large inventory of foreclosed homes will help make home purchases more affordable in high-cost areas. However, as the housing market begins to recover and prices stabilize, then production of additional new affordable units will be required.

There are positive signs that Generation Y is embracing more urban lifestyles and housing preferences that will support the changes in land development and housing construction required to meet their needs. There is growing public support for more vibrant mixed-income and mixed-use communities that can accommodate a wider array of housing options.

Working together, local governments, community groups and developers can come to consensus on new models of housing development that will enable urban and suburban communities to continue to grow and thrive in the coming cycle of demographic and housing market change.

For more information:

VHDA Main Number	877-VHDA-123
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Español	877-843-2123
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TDD/TTY	804-783-6705 / 888-451-4810
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Southwest Virginia Office	800-447-5145
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Website	vhda.com
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VHDA helps Virginians with low- to moderate-incomes buy their own homes. We also help finance affordable, quality rental housing, and we help people with disabilities and the elderly make their homes more livable. We teach free homeownership classes, and partner with other lenders, developers and community service organizations to help put quality housing within the reach of every Virginian. And, we do it all without using a single taxpayer dollar.

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ATTACHMENT 2

VIRGINIA CODE

§ 15.2-2305. Affordable dwelling unit ordinances.

A. In furtherance of the purpose of providing affordable shelter for all residents of the Commonwealth, the governing body of any locality, other than localities to which § [15.2-2304](#) applies, may by amendment to the zoning ordinances of such locality provide for an affordable housing dwelling unit program. Such program shall address housing needs, promote a full range of housing choices, and encourage the construction and continued existence of housing affordable to low and moderate income citizens, determined in accordance with the locality's definition of affordable housing, by providing for increases in density to the applicant in exchange for the applicant providing such affordable housing. Any local ordinance providing optional increases in density for provision of low and moderate income housing adopted before December 31, 1988, shall continue in full force and effect. Any local ordinance may authorize the governing body to (i) establish qualifying jurisdiction-wide affordable dwelling unit sales prices based on local market conditions, (ii) establish jurisdiction-wide affordable dwelling unit qualifying income guidelines, and (iii) offer incentives other than density increases, such as reductions or waiver of permit, development, and infrastructure fees, as the governing body deems appropriate to encourage the provision of affordable housing. Counties to which § [15.2-2304](#) applies shall be governed by the provisions of § [15.2-2304](#) for purposes of the adoption of an affordable dwelling unit ordinance.

B. Any zoning ordinance establishing an affordable housing dwelling unit program may include, among other things, reasonable regulations and provisions as to any or all of the following:

1. A definition of affordable housing and affordable dwelling units.
2. For application of the requirements of an affordable housing dwelling unit program to any site, as defined by the locality, or a portion thereof at one location which is the subject of an application for rezoning or special exception or, at the discretion of the local governing body, site plan or subdivision plat which yields, as submitted by the applicant, at an equivalent density greater than one unit per acre and which is located within an approved sewer area.
3. For an increase of up to 30 percent in the developable density of each site subject to the ordinance and for a provision requiring up to 17 percent of the total units approved, including the optional density increase, to be affordable dwelling units, as defined in the ordinance. In the event a 30 percent increase is not achieved, the percentage of affordable dwelling units required shall maintain the same ratio of 30 percent to 17 percent.
4. For increases by up to 30 percent of the density or of the lower and upper end of the density range set forth in the comprehensive plan of such locality applicable to rezoning and special exception applications that request approval of single family detached dwelling units or single family attached dwelling units, when such applications are approved after the effective date of a local affordable housing zoning ordinance amendment.

5. For a requirement that not less than 17 percent of the total number of dwelling units approved pursuant to a zoning ordinance amendment enacted pursuant to subdivision B 4 of this section shall be affordable dwelling units, as defined by the local zoning ordinance unless reduced by the 30 to 17 percent ratio pursuant to subdivision B 3 of this section.

6. For establishment of a local housing fund as part of its affordable housing dwelling unit program to assist in achieving the affordable housing goals of the locality pursuant to this section. The local housing fund may be a dedicated fund within the other funds of the locality, but any funds received pursuant to this section shall be used for achieving the affordable housing goals of the locality.

7. For reasonable regulations requiring the affordable dwelling units to be built and offered for sale or rental concurrently with the construction and certificate of occupancy of a reasonable proportion of the market rate units.

8. For standards of compliance with the provisions of an affordable housing dwelling unit program and for the authority of the local governing body or its designee to enforce compliance with such standards and impose reasonable penalties for noncompliance, provided that a local zoning ordinance provide for an appeal process for any party aggrieved by a decision of the local governing body.

C. For any building which is four stories or above and has an elevator, the applicant may request, and the locality shall consider, the unique ancillary costs associated with living in such a building in determining whether such housing will be affordable under the definition established by the locality in its ordinance adopted pursuant to this section. However, for localities under this section in Planning District Eight, nothing in this section shall apply to any elevator structure four stories or above.

D. Any ordinance adopted hereunder shall provide that the local governing body shall have no more than 280 days in which to process site or subdivision plans proposing the development or construction of affordable housing or affordable dwelling units under such ordinance. The calculation of such period of review shall include only the time that plans are in review by the local governing body and shall not include such time as may be required for revision or modification in order to comply with lawful requirements set forth in applicable ordinances and regulations.

E. A locality establishing an affordable housing dwelling unit program in any ordinance shall establish in its general ordinances, adopted in accordance with the requirements of § [15.2-1427](#) B, reasonable regulations and provisions as to any or all of the following:

1. For administration and regulation by a local housing authority or by the local governing body or its designee of the sale and rental of affordable units.

2. For a local housing authority or local governing body or its designee to have an exclusive right to purchase up to one-third of the for-sale affordable housing dwelling units within a development within ninety days of a dwelling unit being completed and ready for purchase,

provided that the remaining two-thirds of such units be offered for sale exclusively for a ninety-day period to persons who meet the income criteria established by the local housing authority or local governing body or the latter's designee.

3. For a local housing authority or local governing body or its designee to have an exclusive right to lease up to a specified percentage of the rental affordable dwelling units within a development within a controlled period determined by the housing authority or local governing body or its designee, provided that the remaining for-rental affordable dwelling units within a development be offered to persons who meet the income criteria established by the local housing authority or local governing body or its designee.

4. For the establishment of jurisdiction-wide affordable dwelling unit sales prices by the local housing authority or local governing body or the latter's designee, initially and adjusted semiannually, based on a determination of all ordinary, necessary and reasonable costs required to construct the affordable dwelling unit prototype dwellings by private industry after considering written comment by the public, local housing authority or advisory body to the local governing body, and other information such as the area's current general market and economic conditions, provided that sales prices not include the cost of land, on-site sales commissions and marketing expenses, but may include, among other costs, builder-paid permanent mortgage placement costs and buy-down fees and closing costs except prepaid expenses required at settlement.

5. For the establishment of jurisdiction-wide affordable dwelling unit rental prices by a local housing authority or local governing body or its designee, initially and adjusted semiannually, based on a determination of all ordinary, necessary and reasonable costs required to construct and market the required number of affordable dwelling rental units by private industry in the area, after considering written comment by the public, local housing authority, or advisory body to the local governing body, and other information such as the area's current general market and economic conditions.

6. For a requirement that the prices for resales and rerentals be controlled by the local housing authority or local governing body or designee for a period of not less than 15 years nor more than 50 years after the initial sale or rental transaction for each affordable dwelling unit, provided that the ordinance further provide for reasonable rules and regulations to implement a price control provision.

7. For establishment of an affordable dwelling unit advisory board which shall, among other things, advise the jurisdiction on sales and rental prices of affordable dwelling units; advise the housing authority or local governing body or its designees on requests for modifications of the requirements of an affordable dwelling unit program; adopt regulations concerning its recommendations of sales and rental prices of affordable dwelling units; and adopt procedures concerning requests for modifications of an affordable housing dwelling unit program. Members of the board, to be ten in number and to be appointed by the governing body, shall be qualified as follows: two members shall be either civil engineers or architects, each of whom shall be registered or certified with the relevant agency of the Commonwealth, or planners, all of whom shall have extensive experience in practice in the locality; one member shall be a real estate

salesperson or broker, licensed in accordance with Chapter 21 (§ [54.1-2100](#) et seq.) of Title 54.1; one member shall be a representative of a lending institution which finances residential development in the locality; four members shall consist of a representative from a local housing authority or local governing body or its designee, a residential builder with extensive experience in producing single-family detached and attached dwelling units, a residential builder with extensive experience in producing multiple-family dwelling units, and a representative from either the public works or planning department of the locality; one member may be a representative of a nonprofit housing organization which provides services in the locality; and one citizen of the locality. At least four members of the advisory board shall be employed in the locality.

F. A locality establishing an affordable housing dwelling unit program in any ordinance shall establish in its general ordinances, adopted in accordance with the requirements of subsection B of § [15.2-1427](#), reasonable regulations and provisions as to the following:

The sales and rental price for affordable dwelling units within a development shall be established such that the owner/applicant shall not suffer economic loss as a result of providing the required affordable dwelling units. "Economic loss" for sales units means that result when the owner or applicant of a development fails to recoup the cost of construction and certain allowances as may be determined by the designee of the governing body for the affordable dwelling units, exclusive of the cost of land acquisition and cost voluntarily incurred but not authorized by the ordinance, upon the sale of an affordable dwelling unit.

(1990, c. 834, § 15.1-491.9; 1991, c. 599; 1992, c. 244; 1993, c. 437; 1994, cc. [88](#), [679](#); 1996, cc. [233](#), [426](#); 1997, cc. [587](#), [607](#); 2007, cc. [695](#), [713](#); 2008, c. [790](#).)

ATTACHMENT 3

DESIGN ELEMENTS/PUBLIC BENEFITS

The applicant shall demonstrate to the Planning Commission that the proposal provides at least 5 of the following site design elements that could not be attained through a project designed under conventional zoning:

1. Variety of housing types or high percentage of affordable dwelling units;
2. Redevelopment or reuse of brownfield or greyfield sites;
3. Pedestrian-oriented design with buildings oriented to the sidewalk and parking/garages to the side or rear of the site;
4. Pedestrian links to surrounding destinations (such as public facilities or employment opportunities);
5. Provision of bus shelter in reasonable proximity, with approval of WATA;
6. High quality architectural design;
7. Extensive landscaping beyond what is otherwise required
8. Preservation, enhancement, or restoration of natural resources (trees, slopes, non-regulated wetland areas, views);
9. Preservation or restoration of historic resources;
10. Provision of usable open space or public plazas or features;
11. Efficient consolidation of poorly dimensioned parcels or property with difficult site conditions (ie topography, shape, existing non-conforming status for something other than use);
12. Effective transition between higher and lower density uses, and/or between non-residential and residential uses; or allow incompatible adjacent land uses to be developed in a manner that is not possible using a conventional approach;
13. Integration of residential and non-residential uses;
14. Shared vehicular access between properties or uses;
15. Mitigation to offset impacts on public facilities (such as road improvements);
16. Improvements to at least two types of infrastructure (water, sewer, drainage, streets, access);
17. Significant use of sustainable building and site design features such as: water use reduction, water efficient landscaping, innovative wastewater technologies, low impact stormwater management, optimize energy performance, on-site renewable energy, passive solar heating, reuse/recycled/renewable materials, indoor air quality or other elements identified as sustainable by established groups such as the U.S. Green Building Council.

PERMITTED MODIFICATIONS

1. Reduced minimum lot area;
2. No minimum lot width, except for required setbacks;
3. Reduced setbacks;
4. Modest increase of density (up to 30% over existing or previously permitted);
5. Minimal or no perimeter buffer; preservation of existing buffers

MEMORANDUM

DATE: February 9, 2011
TO: Policy Committee
FROM: Ellen Cook
SUBJECT: Cluster Overlay District

I. Introduction to Memo

The overall introduction to the Residential Districts can be found in the accompanying Residential Districts memo. This memo specifically discusses a component of the Residential Districts update, the Cluster Overlay District. The Cluster Overlay District has been in the Zoning Ordinance since at least 1985 and was last comprehensively updated in 1999. Development has been proposed and/or approved using the Cluster Overlay District Ordinance many times over the years. Examples of cluster development in the last 10 years include Michelle Point (partially developed), Monticello at Powhatan North (proposed but not approved), The Candle Factory redevelopment (proposed but not approved), Powhatan Terrace (approved but not yet developed), Mason Park (approved but not yet developed), Villas at Five Forks (partially developed), Villages at Whitehall (partially developed), and Walnut Grove (approved but not yet developed).

On September 25, 2007, members of the Better Site Design (BSD) Implementation Committee held a work session with the Board of Supervisors. The work session was to discuss the Committee's recommendations and get feedback. One of the items discussed was BSD Principle #10, Open Space Design, for which the committee had several recommendations for revisions to the current Cluster Overlay District Ordinance (see Attachment #1). Staff received feedback from the Board of Supervisors that these potential revisions to the Cluster Ordinance should be investigated after completion of the Comprehensive Plan.

Near the time of the Better Site Design Implementation Committee's work, consideration of a revised cluster concept for the Rural Lands was discussed and draft language was prepared. Some elements of the Rural Lands cluster language addressed ideas in the BSD Committee's recommendations, and are referenced in the discussion below.

II. Discussion Items

A. More guidance on open space development design and on what is considered "usable and meaningful open space"

1. Description of the Issue & History

As noted in attachment 1, the BSD Committee suggested better identifying the principles of open space design and better defining what is meant as "usable and meaningful open space" in order to ensure proper application of open space development principles. The Cluster Overlay District currently contains a description in the statement of intent, Section 24-538, that includes examples of the benefits expected in exchange for increased density, of which open space development design is one possibility. A short description of open space design elements is also included in this section. Section 24-554, review and approval process, also contains some

information about preservation of environmental integrity and how structures should be situated on the site. Finally, Sections 24-549 contains a description of superior layout and quality design, for which a 0.5 dwelling unit per acre bonus can be obtained.

2. Comprehensive Plan Goals, Strategies and Actions (GSAs), public input, Sustainability Audit, and Board Direction

- *The direction provided by the Board of Supervisors is described in the Introduction above.*
- *LU 1.3 - Use policy and ordinance tools to ensure the provision of open space. In particular, maintain or increase incentives for cluster development in exchange for additional open space that provides significant benefits to the community.*
- *The Sustainability Audit had a number of suggestions that related to the Cluster Overlay District. Specific items have been flagged throughout the memo by listed the Sustainability Audit item number in parentheses.*
- *Several groups spoke at the public forums in relation to the residential districts and/or the cluster ordinance, including the Chamber and Tourism Alliance, J4C, and Peninsula Housing and Builders Association. These remarks can be viewed at <http://www.jccplans.org/what.html>.*

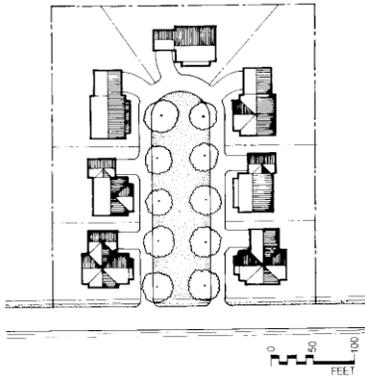
3. Policy Options

Based on the recommendations in the BSD Committee's report, the ordinance could be updated to provide direction on open space development design that is within the text of the district (instead of the statement of intent), is a more prominent element of the district with a more detailed list of values and an appropriate process that demonstrates consideration of these value, and is clearly understood to be a basic requirement of all cluster developments. The following are several specific suggestions for guidance for both the development design and the open space design.

Development Design

The ordinance could be revised to list desired development design items such as:

- *The project takes advantage of compact design through clustering development into a walkable scale neighborhood and preserving significant open space and natural features.*
- *Development that is designed to complement existing topography and minimize the need for alteration of the landscape*
- *Proposing a mixture of unit types and/or unit prices*
- *Creative design layout such as cottage housing (fronting on open space), patio homes (constructed with one side exterior wall along the side property line to allow side or rear yard garages), detached or attached homes on loop lanes (homes on streets surrounding a close – see graphic below), or homes with shared courtyards (Sustainability Audit item 32)*



Example of a Loop Lane Design

- Use of Better Site Design techniques such as group or shared parking, and shared driveways
- Units in the development have access to the conserved area by abutting it, or via sidewalks or trails

Open Space Design (Sustainability Audit items 38-40, 42, 45, 144)

Section 24-552 of the Cluster Overlay District requires that a certain percentage (up to 40%) of the developable area be set aside permanently as open space. It also states that all non-developable areas (see discussion of the non-developable area definition below) must be maintained as open space, if present on the site. (Cluster literature sometimes talks about these non-developable areas as “primary conservation features”.) Staff has identified two possible revisions to this section could help enhance the cluster provisions in accordance with the BSD Committee memo. First, this section could be amended to state that the non-developable area is not permitted to be included in the individual private lots. This is consistent with the principles of open space development.

The second possible revision relates that the fact that there is not much guidance on what is valued to be included in the required developable portion of the required open space. (This guidance would not require more open space, just help developers and staff better evaluate the plan.) Currently, there is basic language about what cannot be included (private yards, for example), and percentage limitations on inclusion of certain areas (golf courses can be counted for up to 30% of the requirement, and right-of-way and perimeter buffers can be counted for up to 50% of the requirement).

Additional guidance could be given that certain areas should be included, to the extent feasible, and consistent with the preservation of significant conservation resources that are identified up front at the master plan level, as “secondary conservation features.” Examples of these might be (some of these are examples drawn from the Rural Lands draft language):

- Existing healthy, native forests of at least two acres contiguous area;
- Other significant natural features and scenic viewsheds such as ponds and views to open water, particularly those that can be seen from public roads;
- Prime or statewide important agricultural lands of at least five acres contiguous area;
- Populations of endangered or threatened plant species, or habitat for such species (natural resource/natural areas inventory policy);
- Archaeological sites, cemeteries and burial grounds (archaeology policy);
- Recreation area – park land, playing field, trails and other features provided that meet the Parks and Recreation Master Plan guidelines (P&R policy);
- Buffers along road rights-of-way and property perimeters;

In terms of the location of the open space, additional guidance could be given, such as the following (as applicable):

- *Proposed open space should adjoin any neighboring areas of open space, other protected areas, and non-protected natural areas that would be candidates for inclusion as part of a future area of protected open space.*
- *Proposed open space should be prominently located and highly visible within the development, such as at the terminus of key views along roads, at the intersection of arterial or collector streets, at topographic high points or centrally located within a residential area. (Sustainability Audit item 61)*
- *Open spaces should be connected to the extent possible (i.e., not located in medians or scattered small pockets), and should be located to as to benefit the maximum number of units.*

In addition, guidance could be given on the open space component meant for recreation, especially for proposed clusters where there are few existing natural features (forest, habitat, etc.) or agriculture. During the last update of the Parks & Recreation Master Plan, more guidance on mini-parks/neighborhood parks was included that significantly addresses this item. The Parks and Recreation neighborhood parks standards (such as standards for contiguous pieces rather than scattered, isolated or remnant lands; width standard; level; minimum % groomed; within certain distance of lots it is intended to serve; recreation areas accessible via paths or sidewalks, etc.) could be adopted to apply to all required open space that is intended for recreational use. (Sustainability Audit item 61)

Finally, it may be worth considering putting a limit on the amount of certain uses that can be counted as open space. As noted above, currently golf courses can be counted for up to 30% of the requirement, and the developable area of right-of-way and perimeter buffers can be counted for up to 50% of the requirement. Staff has no suggestions to change these two items. The Sustainability Audit suggests adding a provision that limits the area of permitted water bodies, stormwater facilities or other required site plan elements to 50% of the open space requirement, to ensure that the open space is truly usable to the residents for active or passive recreation. (Sustainability Audit item 61)

Other elements that address this item are discussed below, particularly the process discussion.

5. Staff recommendation

Staff recommends providing additional guidance on desired open space design, as generally described above. This could take the form of design guidelines in the ordinance, or possibly in the form of a separate document which is referenced in the ordinance.

B. Cluster Approval Process

1. Description of the Issue and History

Literature on cluster development design often emphasizes using conceptual plans to improve outcomes and increase predictability for the developer and the community. The ordinance currently just requires a master plan for cluster development, but does not require a conceptual plan. It sometimes occurs that once a master plan has been drawn up, a significant amount of time and resources have been invested to the point where there is resistance to changes, even if they may be viewed in a positive light by all parties.

2. Comprehensive Plan GSAs, public input, Sustainability Audit, and Board Direction

See item A above.

3. Policy Options

A conceptual plan could help avoid these situations, which is perhaps even more critical for cluster development, where proper information about the site is essential in creating a design that results in meaningful and useful open space.

4. Staff Recommendation

Staff recommends requiring submission of a conceptual plan/sketch plan prior to submission of a master plan which shows the non-developable land and the secondary conservation features, the development and stormwater management conceptual design, and demonstrates that land proposed for recreation is suitable. This concept/sketch plan should be designed in accordance with the graphics and standards in the ordinance and any development design guidebook (see next discussion). The elements of this conceptual plan should also be coordinated with the other submittal requirement sections in the ordinance to avoid duplication. Having a common understanding of the development's goals and design purpose through this process should increase predictability when the master plan and development plans are subsequently submitted.

C. Graphics/Development Design Guidebook

1. Description of the Issue and History

The BSD Committee recommended that the County develop a companion document that describes the open space design process.

2. Comprehensive Plan GSAs, public input, Sustainability Audit, and Board Direction

See item A above.

3. Policy Options

Should the recommendations regarding usable and meaningful open space described above be supported, it appears that some of the goals that such a document would achieve could be accomplished through ordinance text. However, it may still be useful to provide additional guidance to assist developers and increase predictability.

4. Staff Recommendation

Investigate one or more graphics that could be included in the ordinance to help illustrate desired development design characteristics. Should it prove cumbersome to include such graphics in the ordinance, staff could look at developing a separate guidebook that could be referenced in the ordinance.

D. Open Space Percent Requirements

1. Description of the Issue and History

The BSD Committee suggests examining whether the percentage of open space required is appropriate and states: "most documents reviewed suggest that a properly designed open space development requires a minimum of 50% of land to be set aside as natural open space." The current Cluster ordinance has different requirements for open space amount depending on the land use designation and the percentage of affordable housing (if any) provided. Where affordable housing is not part of the plan, the amount of open space required in low-density residential areas is 40% of the net developable area, and in moderate density residential areas, it is 35% of the net developable area. With affordable housing, these percentages range down to 20% in moderate density residential areas with 55 to 100% affordable housing.

2. Comprehensive Plan GSAs, public input, Sustainability Audit, and Board Direction

See item A above.

3. Policy Options

The minimum open space requirement certainly varies in different communities. There are several factors that should be considered in evaluating whether the current percentage is appropriate for the County. First, the context of the cluster is a factor. Communities may have clusters permitted in their rural/agricultural areas, within their residentially zoned areas inside their service area(s), or both. The amount of expected open space for residentially zoned clusters may appropriately be less than for rural area clusters. A second factor is whether the amount of required open space is based on gross or net land area. Where the percentage is based on gross, the percentage of open space would be the same for all parcels of the same size. However, where the percentage is based on net developable, the total open space ends up being the non-developable area (see non-developable area discussion), plus the percentage of the net developable. For example, using the 40% of net developable open space requirement, a ten acre parcel with 50% non-developable area would actually result in 7 acres of open space (or 70% of the site). In low density residential, a parcel with about 20% non-developable land would result in overall total open space percentage of about 50% (again, using the 40% of net developable open space number).

4. Staff recommendation

The percentage of open space required is generally in line with several model ordinances staff has reviewed. Should there be support for changes, staff recommends looking at linking the open space percentage to development density bonus system, by scaling the required open space amount to the scale of the proposed density (please also see the discussion of item E below).

In addition, while the affordable housing open space reduction was just added to this ordinance during the last update in 1999, should changes in affordable housing policies change (which will be discussed in a separate memo), these provisions may need to be changed accordingly.

E. Density bonus items

1. Description of the Issue and History

The Cluster Ordinance has always been formulated to allow for densities greater than the density permitted with the base R-1 or R-2 density alone. These greater densities are permitted in recognition of the development's cluster design and provision of public benefits as part of the development proposal. Prior to 1999, the public benefit items that a developer needed to provide to achieve a higher density were listed as a menu of possibilities, each with a density bonus value assigned. This system was restructured during the last update to the Cluster Ordinance. In the current Cluster Ordinance, the density section is structured to list the specific items that needed to be done to move up the density increment between 1 and 2 dwelling units per acre (du/ac). Beyond 2 du/ac, the developer can choose another specific list of items to go from 2 to 3 du/ac, or can add density to 2 du/ac through three optional items, each worth 0.5 du/ac.

2. Comprehensive Plan GSAs, public input, Sustainability Audit, and Board Direction

See item A above.

3. Policy Options

Staff has reviewed this structure for density bonuses and the items which are listed in the ordinance as the density bonus items, and has identified several possible issues as follows:

1. *The bonus system doesn't necessarily make clear the fundamental value of cluster: preservation of significant meaningful open space. In addition, it may be that the system might be better served through a different structure.*
2. *That some of the current density bonus items may now be either requirements by law, generally expected of all legislative cases via an adopted Board policy (i.e., be baseline expectations), or be associated with practices for which there are currently newer best practices. One example that staff had noted as perhaps not representing the current best practice thinking is the bonus for provision of curb and gutter design on all streets within the development, since low impact development ideas would suggest the use of swales (where possible). Another example of an item where there is an existing expectation through a Board-adopted Policy that applies to all development is the Archaeological Policy. In these instances, it may be that revised or alternative density bonus items should be investigated.*

To address #1, a possibility is to link the density to percent of open space provided, scaling up density with the open space amount. This could be combined with the requirement to address a specified number of measures, out of a list of possible options (which would also address #2). Examples of such measures could include:

Conserved Area-Related Measures

- *Retention of soils in hydrologic groups A and B*
- *Buffers around isolated wetlands*
- *Buffer from floodplain areas*
- *Wildlife habitat corridors*
- *Stream restoration projects*
- *Preservation of a portion of a waterfront within common open space to allow resident access (Sustainability Audit item 64)*

Developed Area-Related Measures

- *Sidewalk/path/bicycle lane in excess of P&R MP and/or VDOT subdivision streets requirement within the development*
- *Expanded buffers along rights-of-way and property perimeters (Sustainability Audit item 73)*
- *Preservation of structures in the JCC building survey (if different than archaeological item listed above)*
- *Green building measures (over policy expectations)*
- *Affordable housing (over policy or ordinance expectations) or Mixed Cost Housing*
- *Creation of a HOA open space maintenance guide*
- *Commitment to create design guidelines for higher architectural standards (such as rear or side loading garages)*
- *Dedication of a County public use site (Sustainability Audit item 65)*
- *Use of an infill site for the development (Sustainability Audit item 5)*
- *Provision of a community garden area and facilities (Sustainability Audit item 58)*
- *Dedication of easements and/or construction of greenway trails on the Greenway Master Plan or Virginia Outdoors Plan*

4. Staff recommendation

Staff recommends exploring the idea of restructuring the bonus system to emphasize the fundamental elements of cluster design, and revising the items used as the bonus density items.

F. Developable area definition

1. Description of the Issue and History

The BSD Committee report recommends looking at the definition of developable area, as this ordinance language should be made as clear as possible, and more closely coordinated with the terms used elsewhere in County Code, especially the Chesapeake Bay Preservation Ordinance.

2. Comprehensive Plan GSAs, public input, Sustainability Audit, and Board Direction

See item A above.

3. Policy Options

Currently the Cluster Ordinance's description of non-developable land is as follows:

"Stream beds, areas subject to flooding under the 100-year storm event, wetlands and areas with slopes exceeding 25% gradient."

Using "Resource Protection Area" instead of the terms stream beds and wetlands would provide clarity and link the terms used to the Chesapeake Bay Preservation Ordinance. It also acknowledges current practice in that these lands are not developable (other than for certain very specific purposes). The addition of the term "FEMA zones A and AE" to the flood area provision would provide additional clarity and definition. Finally, the inclusion of a square footage threshold for the steep slopes component would recognize that very small isolated areas of steep slopes may not be the highest target of preservation efforts. The exact square footage could be adjusted (for example, the draft Rural Lands ordinance cited a higher square footage threshold) and staff can continue to research this issue moving forward.

4. Staff Recommendation

The description could be updated as follows:

"Resource Protection Area (as defined in the Chesapeake Bay Preservation Ordinance¹), areas subject to flooding under the 100 storm event (FEMA zones A and AE), and contiguous areas of 1,000 square feet or greater with slopes exceeding 25% gradient."

G. Density calculated based on net versus gross

1. Description of the Issue and History

The BSD Committee recommendation was to examine how density is calculated and whether the calculation should start with a net or gross calculation. The manner of calculating density in the cluster ordinance is a formula method that is also used in the R-4, R-5, and Mixed Use districts. The text says that the density is calculated using gross acreage, and then further elaborates that the gross acreage depends on the percentage of nondevelopable area on a site. For parcels with less than 35% nondevelopable land, gross acreage equals the total area of the parcel. For parcels with 35% or greater nondevelopable land, the calculation starts with the

¹ The Chesapeake Bay Preservation Ordinance states that Resource Protection Area shall include: tidal wetlands; nontidal wetlands connected by surface flow and contiguous to tidal wetlands or water bodies with perennial flow; tidal shores; and a buffer area not less than 100 feet in width located adjacent to and landward of the components, and along both sides of any water body with perennial flow.

developable area (net acreage) with an accommodation of adding 35% of the total parcel area to that figure. This approach has been in the ordinance since 1992, prior to which the density calculation had been based on net developable land.

The table below shows the number of permitted units depending on calculation method for a hypothetical 10 acre piece of land, which proposes 2 units per acre. Please note that the numbers in this table are for illustrative purposes only, and do not reflect what the Planning Commission and Board may or may not approve.

Percent Non-Developable	NET		Modified Method (Found in Cluster)		GROSS (Found in R-1, R-2)	
	# of Units	Resulting Density on the Developable Land	# of Units	Resulting Density on the Developable Land	# of Units	Resulting Density on the Developable Land*
0%	20	2	20	2	20	2
10%	18	2	20	2.2	20	2.2
20%	16	2	20	2.5	20	2.5
30%	14	2	20	2.9	20	2.9
40%	12	2	19	3.2	20	3.3
50%	10	2	17	3.4	20	4
60%	8	2	15	3.8	20	5

* Subject to identifying a development design that has a suitable building site for each proposed unit and meets all lot dimensional requirements.

2. Comprehensive Plan GSAs, public input, Sustainability Audit, and Board Direction
See item A above.

3. Policy Options

Concerns have periodically been raised in the past about the density that results on the developable land. Specifying a calculation based on net acreage penalizes a property owner for the land that is deemed undevelopable through regulation. However, using a gross calculation can result in higher densities on the developable land. The Cluster Overlay District calculation method is a compromise approach that was designed to balance property owner interests with community compatibility.

4. Staff Recommendation

Staff does not recommend changes to this method of calculating density at this time. Staff does recommend updating the wording describing non-developable land as noted in the developable area definition discussion above.

H. Incentives to develop as cluster

1. Description of the Issue and History

The BSD memo recommends an examination of whether the current ordinance provides sufficient incentives or represents disincentives to developers, particularly in a by-right scenario.

2. Comprehensive Plan GSAs, public input, Sustainability Audit, and Board Direction

See item A above.

3. Policy Options

In terms of regulatory incentives for developers, the Cluster Overlay District provides the following relaxations of requirements:

- *Relaxation/elimination of lot dimensional requirements, allowing greatest design flexibility*
 - *No minimum lot size (otherwise, smallest possible lot in R-1 is 15,000 square feet and in R-2 is 10,000 square feet)*
 - *No minimum required front, side and rear setbacks (front, side and rear setbacks in R-1 are 35', 15', and 35' respectively, and R-2 are 25', 10', and 35' respectively)*
 - *No minimum lot width*
- *Additional permitted residential unit types in R-2*
 - *Cluster allows attached units up to eight-family dwellings (anything more than two is not permitted otherwise)*
- *Permits a density greater (up to 4 units per acre) than the 2 units per acre allowed in R-1 and R-1 (maximum density is the same as in R-5 which is 12 units per acre).*

Other general incentives for developers to develop as a cluster can include reduced infrastructure costs and increased lot values due to open space proximity.

In terms of disincentives, the need for a legislative approval process and decision could be seen as a deterrent, but the fact is that almost all development has to go through the rezoning process anyway. Staff has examined case records for the last ten years and found that of the nine proposed rezonings to R-1 or R-2 (which were over 5 acres), seven applied to also have a cluster special use permit – this represents about 78%. The other two used provisions in the R-2 ordinance that allow densities to be increased from 1 unit to 2 units per acre. The situation for rezoning to R-5 was the reverse with just one of the five proposed rezonings including a cluster SUP component. (Note that the Cluster Overlay District can only be used in conjunction with R-1, R-2 and R-5.). This indicates that when looking at the higher density ranges associated with moderate density residential development, the Cluster Overlay may not distinguish itself as having greater incentives, but that it has provided sufficient incentives at lower proposed densities. In terms of the by-right scenario, there is minimal pre-zoned existing undeveloped R-1 and R-2 land in the County that is developable. In the past ten years there have been two developments of major subdivisions (9+ lots) of existing R-2 land: McFarlin Park and Marywood. Neither proposed over 1 unit per acre, and neither opted to create a master plan to use cluster development.

4. Staff Recommendation

For the most part, the current incentives seem to be sufficient to attract developer interest. Given the relatively small amount of pre-zoned land, staff would not recommend making changes to the ordinance solely to provide more incentives for those cases, although incentives are proposed in general as discussed in the Density bonus items section. Staff believes that if additional predictability is added to the ordinance through clearer expectations and process, this will help incentivize the use of the ordinance as well.

I. Inside the Primary Service Area

1. Description of the Issue and History

In recent years, the question has surfaced as to whether the Cluster Overlay District could be permitted outside of the Primary Service Area (PSA), in conjunction with a rezoning resulting in R-1, R-2 or R-5 zoned land.

2. Comprehensive Plan GSAs, public input, Sustainability Audit, and Board Direction

See item A above.

3. Policy Options

The Zoning Administrator and County Attorney determined that should such a rezoning be approved, the language of the current ordinance would allow the overlay to be applied to the new zoning. While the language would technically allow this, staff has reviewed the evolution of the Cluster Overlay District language over time and the intent was for the overlay to be used in areas designated Low and Moderate Density Residential by the Comprehensive Plan – all of which are located inside the Primary Service Area. Furthermore, the densities allowed in the Cluster Overlay District exceed those recommended by the Rural Lands land use designation, which is most commonly found on land outside the PSA. A separate “Rural Cluster” provision is currently included in the A-1 District, which is a typical zoning district for land outside of the PSA and which allows densities more appropriate to the Rural Lands land use designation. Any changes to these provisions will be addressed in a separate memo.

4. Staff Recommendation

Include language in Section 24-540, Where Permitted, stating that the Cluster Overlay District is permitted only inside the Primary Service Area. This will provide greater clarity regarding the applicability of the Cluster Overlay District.

III. Conclusion

Staff seeks Policy Committee feedback on the staff recommendations contained in this memo.

Attachments

1. BSD Implementation Committee Appendix

Appendix VI.

The recommendations by the Roundtable raised several points of concern including:

- 1) What constitutes "properly designed open space developments"?
- 2) Does the JCC Cluster Ordinance "as is" and applied in a "by-right" manner encourage and support "properly designed open space developments" in the County?
- 3) Will the current ordinance ensure that the character of existing conventional R-1 subdivisions is protected if open space development is allowed "by-right" in R-1?
- 4) Is the current approval process (because of either time requirements or complexity) a disincentive for "open space development"?
- 5) Does the current approval process/ordinance provide adequate incentives to ensure additional environmental protection is incorporated into proposed development?
- 6) What other incentives will encourage applicants to utilize the open space development techniques and ensure additional environmental protection?

This committee reviewed a number of documents and open space development ordinances from other jurisdictions to determine what constitutes "properly designed open space development" and how to ensure proper application of this development technique to ensure optimum results. Base on this review, the committee has several observations regarding the open space development concept versus the JCC Cluster Ordinance.

- 1) Conceptually, in terms of design hierarchy, clustering is considered one possible open space design option whereas; the JCC Cluster Ordinance establishes "open space development" as a cluster option.
- 2) Unlike conventional subdivision design, the first step in the open space design process is site analysis that identifies critical environmental, historical, and cultural site features and characteristics and guides site design.
- 3) The environmental benefits derived from the open space development techniques are maximized if stormwater management is integrated into the very core of site design rather than an afterthought in the design process.
- 4) Simply making open space development by right either via the cluster option or within the R-1 ordinance is unlikely to provide enough incentive to achieve the goals and objectives of Principle 10.

In conclusion, the committee has determined that the current JCC Cluster Overlay District should be amended to ensure "properly designed" open space developments,

include adequate provisions to protect the character of existing conventional subdivisions, and include adequate incentives to promote the use of open space development techniques (either via by-right or SUP process).

However, this committee determined that Cluster Ordinance revisions are outside the scope of this committee's designated tasks because no such action is contained in the language of the original consensus document. Therefore, the committee recommends that Planning Commission and Board of Supervisors re-examine and evaluate the Cluster Overlay Ordinance and the R-1 Ordinance and revise either or both ordinances.

The following are provided for consideration during the amendment process:

- A) Definitions - In order to ensure proper application of open space development principles, the County should define and provide guidance regarding the following terms utilized in Article VI, Division 1:
- i) Identify the "Principles of open space development design"
 - ii) Define or identify what is considered "usable and meaningful open space"
 - iii) Define what constitutes "unusual or extraordinary environmental protection" - linking these requirements to innovative stormwater management plans, natural resource protection, low impact development techniques, better site design techniques, etc.
 - iv) "Developable area" should not include land that cannot be developed according to state, federal, or county laws. The current definition does not exclude 100-ft RPA buffers that cannot be developed according to the Chesapeake Bay Ordinance.
- B) Cluster/Approval Process - Examine how the process can be expedited; determine whether preliminary conceptual master plans should be required or strongly encouraged in the ordinance; require applicants to conduct site analyses prior to conceptual plan development and incorporate primary conservation features into the preliminary conceptual plan; have applicants demonstrate during the conceptual master plan approval process how open spaces relate to environmental benefits.
- C) Open Space Requirements - Examine whether the percentage of open space required is appropriate. Most documents reviewed suggest that a properly designed open space development requires a minimum of 50% of land to be set aside as undisturbed, natural open space. The open space characteristics are critical factors associated with the effectiveness of stormwater management, habitat preservation, etc.
- D) Density - Examine how density is calculated and whether the calculation should start with a net or gross calculation. This concept is linked to the developable area concept. How to calculate density bonuses, preservation of property development

rights, protecting the character of adjacent conventional subdivisions, and the disincentive to open space development if not handled correctly.

- E) Incentives versus disincentives - Examine whether the current ordinance provides sufficient incentives or represents disincentives to developers, particularly in a by-right scenario.
- F) Open Space Design Guidelines - The Committee recommends that the County develop a companion document that describes the open space design process, provides examples of the different development options such as varying the lot sizes within a development, and provides clear guidance on what features should be considered for conservation in open space areas, as well as examples of how stormwater management can be incorporated into the design process.
- G) Coordination/Compatibility with Rural Conservation Cluster Option - The committee acknowledges that some of the recommendations of the Better Site Design consensus document may be implemented because of the current rural lands initiative. The Committee would recommend that whatever action may be taken with regard to the Cluster Overlay District be coordinated and compatible with any ordinance changes that may result from this initiative.
- H) Education of and Marketing to Stakeholders - Once a design guideline document is developed, the committee recommends that a one-day education workshop should be conducted which is co-sponsored by the County and The Peninsula Home Builders to educate developers, staff and other stakeholders on the Open Space Development benefits and design techniques.

MEMORANDUM

DATE: February 23, 2011
TO: Policy Committee
FROM: Jose Ribeiro
SUBJECT: Procedural Descriptions, Submittal Requirements and Administrative Items

I. Introduction

The zoning ordinance provides a broad range of information related to procedures, submittal requirements and administrative items. This information is mostly found under Article I (General), Article III (Site Plan), Article VII (Nonconformities), and Article VIII (Appeals) of the ordinance. As part of the zoning ordinance update process, staff has been tasked to research this broad topic; identify issues where revisions may be recommended, evaluate solutions, and introduce new concepts and ideas for consideration.

This memorandum focuses on revisions to the language and identification of issues under Article I (General) and Article III (Site Plan) only. Staff has identified and proposes the following sections/items for revisions: (1) Section 24-143-Site plan submittal requirements; (2) Section 24-7-Administrative fees; (3) Section 24-2-Definitions; (4) Section 24-23-Submittal requirement for legislative cases; and (5) illustrations. The first attachment to this report, Table A, provides a summary of all revisions proposed by staff to the language and content under Article I and III of the ordinance. Proposed revisions related to Article VII is discussed under a separate memorandum.

Also, as part of this researched topic, the ordinance update methodology identifies 3 subjects (under Section 24-23-Submittal requirements for legislative cases) as areas for potential research: development of guidelines for traffic studies, fiscal impact studies, and environmental impact. These are also discussed by staff, in details, under separate memorandums.

II. Discussion Items

A. **When Site Plans are required (Section 24-143)**

1. Description of Issue

- Site plans are necessary to ensure that development is evaluated, reviewed, and properly documented by staff. This section of the ordinance provides a comprehensive list of uses which require submittal of site plans for review and approval prior to development. The ordinance also identifies a few instances where submittal of a site plan is not required: single-family dwelling units, construction of individual private decks and fences accessory to multiple-family dwellings, townhouses and condominiums. Staff proposes to expand the list of uses exempt from the site plan submittal requirement to also include minor additions and alterations to approved site plans.

2. History/Background

- In certain instances, a project proposing small structures to be built internally on a site and not visible from a public right-of-way or adjacent properties, could be considered for exemption from the site plan submittal process. For Example, staff receives site plan amendments every year for the construction of food carts, small sheds and other accessory structures at Busch Gardens Williamsburg. Generally, these structures are proposed to be located far from public right-of-ways and adjacent properties. In many of the projects, there are no impacts to the environment, as most of the improvements are small in scale, and issuance of a Land Disturbing Permit is not required. Another recent example, the request to build a small storage building internally to the Go-Kart Plus Site. The proposed building storage cannot be seen from the public right-of-way or adjacent properties. There were no impacts to the environment, local traffic, landscape areas or to utilities. Due to the current ordinance requirements, a site plan amendment was submitted for review or approval.

3. Comprehensive Plan GSAs, public input, and PC and BOS direction

- There was no specific PC or BOS direction provided regarding this topic. However, revisions to procedures are identified and supported by the 2009 Comprehensive Plan. The Economic Development Goals, Strategies, and Actions (GSA) Section offers the following recommendations:

ED1.5-Continue to analyze County regulations, policies, and procedures to ensure that they do not unnecessarily inhibit commercial and industrial development; and

ED 1.6-Support the recommendations of the Business Climate Task Force as determined by the Board of Supervisors.

-Staff researched other localities ordinances¹ to evaluate different site plan submittal regulations. While the measures for submitting plans are expectedly different between localities, the majority of the ordinances provide for exemptions. The nature of these exemptions varies, from the scale of the construction footprint, redevelopment of existing sites, to impacts to the environment and traffic.

- In the first of the two Planning Commission Public Forums held on August of 2010, the Director of Designing and Engineering for Busch Gardens Williamsburg requested a modification to the submittal process for minor amendments to previously approved site plans. Staff investigated the site plan submittal process for amusement parks in other localities and found that the majority of localities researched did not require a site plan amendment for smaller additions and alterations.

4. Solution and Policy Options

-Based on staff's research and the input received from the Planning Commission Forum, staff recommends that a section listing exemptions to the site plan submittal requirement be included into the Zoning Ordinance. Staff is currently working to identify criteria to be used in order to exempt a particular use from the site plan requirement. Examples of potential criteria to be considered may include the size and scale of a proposed development, impacts to traffic, adjacent properties, and whether a proposed development can be visible from a public right-of-way.

5. Staff recommendation

- Staff recommends amending Section 24-143 of the Zoning Ordinance to include the above criteria for exempting certain types of development from the site plan submittal requirement.

B. Administrative Fees (Section 24-7 and Section 19-15)

1. Description of Issue

-With the support of County Attorney's Office and the Financial and Management Services Department, staff proposes to remove the sections pertaining to administrative fees from the zoning and subdivision ordinance.

2. History and Background

- The Administrative Fees section was first introduced into the Zoning Ordinance in 1974. This section of the ordinance was later amended in 1985; the major revision to this section was the removal of an enumerated fee schedule and introduction of specific language referencing that all fees would be established by resolution of the

¹ A list of all localities researched is located in the reference section of this memorandum.

Board of Supervisors. In 1991, this section was amended and a fee schedule was once again introduced into the ordinance. Since then, this section of the ordinance has been revised 9 times. An enumerated fee schedule was first introduced into the Subdivision Ordinance in 1989. Since then, the Fee Section of the Subdivision Ordinance has been amended 8 times.

-Staff researched other localities' ordinances to investigate whether a fee schedule was enumerated or found in other document besides the ordinance. Of the 10 localities researched, staff found that half had a fee schedule enumerated in their ordinances while the other half did not enumerate their fee schedule but made reference to a separate document established by the Board of Supervisors/City Council.

3. Comprehensive Plan GSAs, public input, and PC and BOS direction

- There was no specific PC or BOS direction provided regarding this topic.

4. Solutions and Policy options

-Removing the enumerated fee schedule from the ordinance streamlines the process of updating costs associated with planning and zoning administrative processes. Should the fees section be removed from the ordinance, there would not be a need for a public hearing every instance when fees require adjustment; rather, revisions to fees would be presented directly to the Board of Supervisors for consideration during each annual budget cycle.

5. Staff recommendation

-Staff recommends that Section 24-7 of the Zoning Ordinance and Section 19-15 of the Subdivision ordinance be amended to remove the fee schedule and replace it with language referencing a separate fee schedule document approved by the James City County Board of Supervisors.

C. Definitions (Section 24-2)

1. Description of Issue

-There are 174 terms defined under this section of the Zoning Ordinance. Definitions are important tools which help to clarify meaning of planning, zoning, and land use related issues. Staff proposes to amend terms currently defined in the ordinance (refer to attachment No. 2) and introduce definitions as new text and concepts are considered for inclusion as part of the ordinance update process.

2. History and Background

- The criteria used by staff to revise current definitions was based on whether or not a definition of a particular term has been called into question in the past, if it's meaning

required further clarification, or if it needed to be updated to comply with current or proposed regulations and/or State Code.

-Staff is currently working to identify new terms to be included into this section of the ordinance. Staff researched the definition section of 10 other localities' ordinances. Over 1,500 definitions were catalogued. The purpose of this research was to identify terms which are defined in other ordinances but not in the James City County Zoning Ordinance. This research will help staff evaluate the need for new terms to be defined in the ordinance.

3. Comprehensive Plan GSAs, public input, and PC and BOS direction

- There was no specific PC or BOS direction provided regarding this topic.

4. Solutions and Policy options

- As different sections of the ordinance are revised, and new language is considered for inclusion, staff will identify new terms and their definitions and present them for Policy Committee consideration toward the end of the Zoning Ordinance Update process.

- Staff also proposes to insert the definition of terms which are currently not in the Zoning Ordinance but are found in the Chesapeake Bay Preservation Ordinance (refer to Table C). The reason for this inclusion is that many terms currently defined in the Chesapeake Bay Preservation Ordinance are related to issues presented by the Zoning Ordinance.

D. Submittal Requirements for Legislative Cases (Section 24-23)

1. Description of Issue

I. -The methodology for the ordinance update identifies three major areas for potential research under this section: development of guidelines for traffic studies, environmental impact, and fiscal impacts studies (discussed in separate memorandums). The purpose for the development of these guidelines is to standardize different types of information submitted for staff's review and to facilitate the submittal requirements for the applicant (e.g. a template for fiscal impacts guidelines will be available to applicants at no cost.)

II – Sub article (a)(2) of this section of the ordinance indicates that master plans should be prepared in accordance with the requirements of section 24-484(b) (1)-(5), Planned Unit Development District. In fact, master plan submittal requirements for other districts such as Residential Planned Community, R-4 (Section 24-276), Research and Technology, RT (Section 24-464), and Mixed Use, MU (Section 24-515) are very similar.

2. Solutions and Policy Options

-Staff proposes to remove the master plan preparation requirements from the above sections and include all as a sub action under Submittal Requirements for Legislative cases. The purpose of this revision is to organize this information and to avoid repetition throughout the ordinance.

E. **Illustrations**

1. Description of Element

-Clarity of information and a more user-friendly ordinance is one of the goals identified by staff as part of the update process. With that in mind, staff proposes to add illustrations to the ordinance in order to aid the understanding of zoning/planning subject and concepts which can be, at times, complex to understand. At this stage of the update, staff is working to identify the types of information which would benefit from illustrations. Staff finds that illustrations such as the examples provided in attachment No. 3 can be helpful teaching aid tools.

III. **Conclusion**

Staff recommends that the Policy Committee support the revisions proposed to the procedural descriptions, submittal requirements and administrative items found under Article I and Article III of the zoning ordinance.

ATTACHMENTS:

1. Table A-Summary of changes to Articles I and III,
2. Table B-Preliminary list of definitions to be amended, Table C-Chesapeake Bay Preservation Ordinance definitions
3. Table D- Example of Illustrations
4. Table E-References

Table A-Summary of proposed changes to Chapter 24, Article I-In General

Ordinance Section	Proposed changes	Reason
Section 24-1. Short Title	N/A	N/A
Section 24-2. Definitions	Revise existing definitions and introduce new definitions	Refer to memorandum for discussion.
Section 24-3. Purpose of chapter; zoning map	(b)(1)-“To provide for adequate light, air, convenience of access and safety from fire, flood, <i>impounding structure failure</i> , and other dangers.	Amend this section of the ordinance in accordance with State Code.
Section 24-4. Exclusive nature of the chapter	N/A	
Section 24-5. Zoning administrator; administration and enforcement of chapter	N/A	
Section 24-6. Duty of those authorized to issue licenses and permits to conform to chapter	N/A	
Section 24-7. Administrative fees	Remove all sections pertaining to fees from the ordinance.	Refer to memorandum discussion.
Section 24-8. Certificate of occupancy	Substitute “ zoning administrator ” for “ <i>building official</i> ”	The building official is the agent responsible for issuance of certificate of occupancies in James City County.
Section 24-9. Special use permits	N/A	
Section 24-10. Public hearing required	N/A	
Section 24-11. Special use permit requirements for certain commercial uses; exemptions	Refer to Commercial Districts	N/A
Section 24-12. Revocation of special use permits	N/A	N/A
Section 24-13. Amendment of chapter	Update text	Amend this section of the ordinance in accordance with State Code
Section 24-14. Construction and severability of provisions	N/A	N/A

Ordinance Section	Proposed changes	Reason
Section 24-15. Purpose of this article	N/A	N/A
Section 24-16. Proffer of conditions	N/A	N/A
Section 24-17. Enforcement and guarantees as to conditions	N/A	N/A
Section 24-18. Records	N/A	N/A
Section 24-19. Petition for review of decision	N/A	N/A
Section 24-20. Amendments and variations of conflicts	N/A	N/A
Section 24-21. Relation of section to other laws	N/A	N/A
Section 24-22. Penalties; sanctions, injunctive relief, fines	N/A	N/A
Section 24-23. Submittal requirements	(a)(2) " A water and sewer impact study for all projects with and anticipated average daily flow greater than 30,000 gallons , <i>15,050 gallons</i> and/or for proposed residential projects containing 100 <i>50</i> lots or more."	Per the request of JCSA staff in order to comply with current JCSA regulations.
Section 24-23. Submittal requirements	(b)(2) Include master plan submittal requirements for all sections of the ordinance, including R-4, PUD, R&T, MU, and EO	This change is proposed in order to better organize information which is similar but currently found under separate sections of the ordinance.

Table A -Summary of proposed changes to Chapter 24, Article III-Site Plan

Ordinance Section	Proposed changes	Reason
Section 24-142. Statement of intent	N/A	N/A
Section 24-143. When site plans required	Include an exemption to when site plans are required to be submitted	Refer to memorandum for discussion
Section 24-144. Pre application conference and submission of conceptual plan	N/A	N/A
Section 24-145. Site Plan submittal requirements	(d) Delete “ If the submitted site plan does not have an approved conceptual plan, as set forth in section 24-144, then the site plan shall be reviewed by the commission under the requirements of section 24-148”	Submittal of a conceptual plan is not a requirement prior to submittal of a site plan. Staff proposes to delete sub article d of Section 24-145.
Section 24-146. Public access to site plan	N/A	N/A
Section 24-147. Criteria for review	N/A	N/A
Section 24-148. Procedure for commission review of site plans	N/A	N/A
Section 24-149. Procedure for review of site plans by the commission’s designee (s)	N/A	N/A
Section 24-150. Procedures for administrative review of site plans	N/A	N/A
Section 24-151. Review criteria generally	N/A	N/A

Ordinance Section	Proposed changes	Reason
Section 24-152. Term of validity for preliminary approval	N/A	N/A
Section 24-153. Submittal of revised site plan generally	N/A	N/A
Section 24-154. Reserved	N/A	N/A
Section 24-155. Action upon completion of review of revised site plan	N/A	N/A
Section 24-156. Term of validity of final approval	N/A	N/A
Section 24-257. Amendment of approved site plans	N/A	N/A
Section 24-158. Final “as-built” plans required	N/A	N/A
Section 24-159. Compliance with site plan required	N/A	N/A
Section 24-160. Administrative review fees	Delete reference to section 24.7 Administrative Fees	Removal of Section 24-7 from the Zoning Ordinance

Table B-Preliminary list of definitions to be amended

Term(s)	Current Definition	History	Reason for Revision
Adult Day Care Center	A facility that provides care to adults during part of the day only and which includes personal supervision of the adults and promotes social, physical and emotional well-being through companionship, self education and leisure time activities.	Introduced to the ordinance in 1997.	Similar definitions. Research these definitions to eliminate redundancies. Look at the State Code for update definitions. staff proposes the inclusion of new terms which are relatively similar to these but have their own specifications (E.g. Assisted Living Facility and Continuing Care Retirement Community-CCRC's)
Home care facility	A residential facility for the care of four or more persons who require the protection of a supervised group setting or nine or more persons who are mentally ill, intellectually disabled, or developmentally disabled	Introduced in 1991 and revised in 2009	
Rest home	Any place, establishment or institution, public or private, including any day care center for adults, operated or maintained for the maintenance or care of four or more adults who are aged, infirm or disabled, except the home or residence of any individual who cares for or maintains only persons related to him by blood or marriage. The term "rest home" shall include facilities known by varying nomenclature such as home for adults and domiciliary	Introduced to the ordinance in 1985	
Affordable Housing	Units with sales prices targeted to low-and moderate-income households, as defined by the U.S. Department of Housing and Urban Development (HUD). Such sales prices shall be those endorsed annually by the board of supervisors after receiving recommendation from	Introduced to the ordinance in 1999 and revised in 2007.	This definition will be updated in conjunction with the Housing and Community Development staff. The Board of Supervisors have not endorsed sales prices targeted to low-and moderate-income households on an annually basis for some

	the James City County Office of Housing and Community Development based on the then-current HUD area-wide income limits and identified local needs.		time.
Camouflaged Structure	Any WCF disguised or hidden so that all of its components are unnoticeable to the casual observer, or otherwise not have the appearance of an antenna or a tower, and which meets at least one of the following: (1) the structure has the appearance, scale and height of other structure that are generally permitted in the district in which is to be located; (2) the structure has the appearance of vegetation native to eastern Virginia; or (3) the structure is completely surrounded by a minimum of a 100-foot, undisturbed buffer of mature trees, or a buffer consisting of other elements such as evergreen trees, other structures or topography that provide at least the equivalent visual effect of a 100-foot undisturbed buffer of mature deciduous trees, that in combination with the design and color of the structure, renders the structure unnoticeable to the casual observer.	Introduced to the ordinance in 1998 under the definition of "Support Structure"	Staff proposes to evaluate the need to introduce differences between a "camouflages structure" and a "concealed structure." Expect revisions or introduction of terms related to Wireless Communication.
Timbering	Tree harvesting, cutting, or removal where the total amount of land in which tree cutting occurs exceeds 10,000 square feet. However, timbering shall not include: (1) Harvesting, cutting, removal or other clearing of trees in accordance with an approved site plan, subdivision plan, or building permit; or (2) Removal of dead, diseased, dying, or insect damage trees.	Introduced to the ordinance in 1996.	The definition of timbering has been revised according to staff's research in collaboration with the Virginia Department of Forestry (VDOF) representative (please refer to the memorandum on the Timbering section (Development Standards) as part of Zoning and Subdivision Ordinance Update.

Structure	Anything constructed or erected, the use of which required permanent location on the ground or attachment to something having a permanent location on the ground.	Introduced to the ordinance in 1985	Provide examples of what structures are and what structures are not.
Dwelling	<p>Any structure which is designed for use for residential purposes, except hotels, motels, boardinghouses, lodging and tourist cabins,</p> <p>(1) Single-family detached. A detached structure arranged or designed to be occupied by one family, the structure having only one dwelling unit.</p> <p>(2) Two-family. A structure containing two dwelling units separated from one another by a solid wall or floor. For the purposes of this chapter, the term “two-family dwelling” shall not apply to a single-family dwelling containing an accessory apartment.</p> <p>3) Multiple Family. A structure arranged or designed to be occupied by more than two families.</p>	Introduced to the ordinance in 1985 and revised in 1989 and 1999, respectively.	Staff proposes to amend this definition by adding the following terms to be defined under “dwelling”: single-family attached, duplex, triplex, and quadplex. These are terms which are not currently defined by the Zoning Ordinance; however, these are frequently used by staff and by applicants in the evaluation of residential and mixed use projects.
Flood or flooding	<p>(1) A general or temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters, or the unusual and rapid accumulation or runoff of surface water from any source.</p> <p>(2) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature such as a flash</p>	Introduced into the ordinance on 2007	Staff proposes to update this definition to comply with the Department of Conservation and Recreation (DCR) most recent Virginia Model Floodplain Zoning Ordinance. Please also refer to memorandum pertaining to Floodplains under the Development Standards section.

flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph 1 of this definition

Floodway

The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height

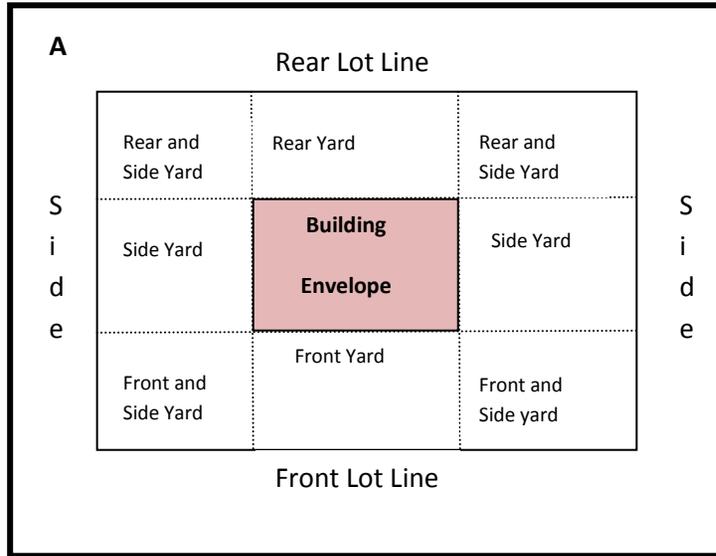
Definition added on 1988 and revised on 2007

Staff proposes to update this definition to comply with the Department of Conservation and Recreation (DCR) most recent Virginia Model Floodplain Zoning Ordinance. Please also refer to memorandum pertaining to Floodplains under the Development Standards section.

Table C- Chesapeake Bay Preservation Ordinance definitions

Term(s)	Definition
Best management practice (BMP)	A practice, or combination of practices, that is determined by a state, local or regional agency to be the most effective, practicable means of preventing or reducing the amount of pollution generated by nonpoint sources to a level compatible with water quality goals.
Development	The construction or substantial alteration of residential, commercial, industrial, institutional, recreational, transportation, or utility facilities or structures.
Redevelopment	The process of developing land that is or has been previously developed.
Resource Protection Area (RPA)	<p>That component of a Chesapeake Bay Preservation Area (CBPA) comprised of land adjacent to water bodies with perennial flow that have an intrinsic water quality value due to the ecological and biological processes they perform or are sensitive to impacts which may result in significant degradation to the quality of state waters. RPAs shall include:</p> <ul style="list-style-type: none"> • <i>Tidal wetlands;</i> • <i>Nontidal wetlands connected by surface flow and contiguous to vital wetlands or water bodies with perennial flow;</i> • <i>Tidal Shores;</i> • <i>A buffer area not less than 100 feet in width located adjacent to and landward of the components listed in subdivision 1 through 3 above, and along both sides of any water body whith pererrnial flow</i>
Impervious cover	A surface composed of any material that significantly impedes or prevents natural infiltration of water into the soil. Impervious surfaces include, but are not limited to, roofs, buildings, streets, parking areas, and any concrete, asphalt or compacted aggregate surface. Pervious pavement surfaces will not be considered as totally impervious but will be given partial credit based on the open area and runoff characteristics of the paver structure and the proposed installation.
Runoff	That portion of precipitation that is discharged across the land surface through conveyances to one or more waterway

Table D. Example of illustrations:



A. Yard. An open space on a lot, other than a court, unoccupied and unobstructed from the ground upward except as otherwise provided herein:

(1) Front. An open space on the same lot as a building and located between the front building line and the front lot or street line and extending across the full width of the lot.

(2) Rear. An open, unoccupied space on the same lot as a building between the rear building line and rear line of the lot and extending the full width of the lot.

(3) Side. An open, unoccupied space on the same lot as a building between the side building line and the side line of the lot and extending from the front yard line to the rear yard line

B. Flag Lot. A lot not fronting on or abutting a public road and where access to the public road is by a narrow, private right-of-way not less than 25 feet in width.

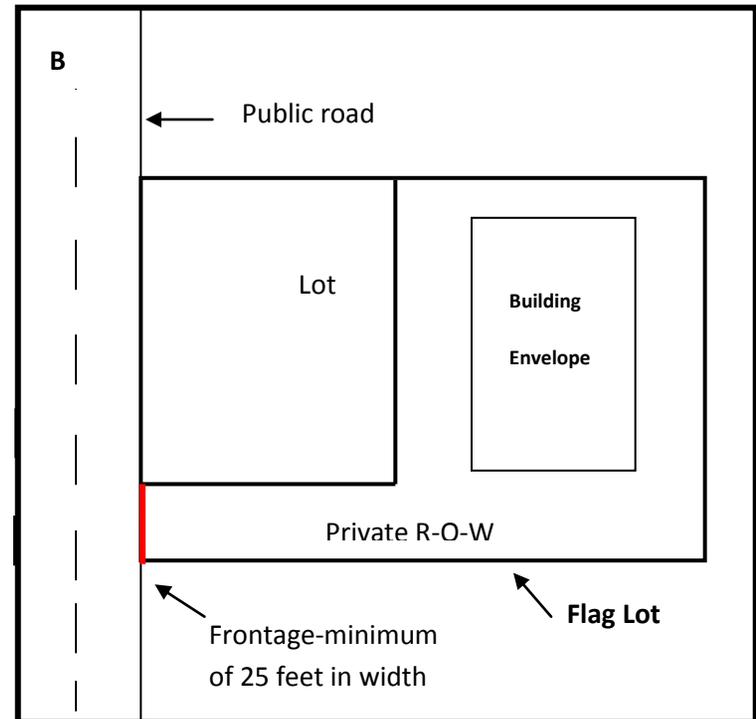




Table E- References

A-When are site plans required	Source	Website
Charlottesville, VA	Ordinance	http://www.charlottesville.org/
Chesapeake, VA	Ordinance	http://cityofchesapeake.net/
Chesterfield County, VA	Ordinance	http://www.chesterfield.gov/
Virginia Beach, VA	Ordinance	http://www.vbgov.com/
York County, VA	Ordinance	http://www.yorkcounty.gov/
Henrico County, VA	Ordinance	http://www.co.henrico.va.us/
Williamsburg, VA	Ordinance	http://www.williamsburgva.gov/
A-When are site plans required-Theme Parks	Source	Website
Henrico, VA	Phone	N/A
Tampa, FL	Phone	N/A
Arlington, TX	Phone	N/A
Cobb County, GA	Phone	N/A
York County, VA	Ordinance	http://www.yorkcounty.gov/
Eureka, MO	Phone	N/A
San Antonio, TX	Phone	N/A
B-Administrative Fees	Source	Website
Charlottesville, VA	Ordinance	http://www.charlottesville.org/
Chesapeake, VA	Ordinance	http://cityofchesapeake.net/
Chesterfield County, VA	Ordinance	http://www.chesterfield.gov/
Virginia Beach, VA	Ordinance	http://www.vbgov.com/
York County, VA	Ordinance	http://www.yorkcounty.gov/
Henrico County, VA	Ordinance	http://www.co.henrico.va.us/
Williamsburg, VA	Ordinance	http://www.williamsburgva.gov/
Elk River, MN	ordinance	http://www.ci.elk-river.mn.us/
Wheat Ridge, CO	Ordinance	http://www.ci.wheatridge.co.us/
C-Definitions	Source	Website
Henrico, VA	Ordinance	http://www.co.henrico.va.us/
Chesapeake, VA	Ordinance	http://cityofchesapeake.net
Charlottesville, VA	Ordinance	http://www.charlottesville.org
Chesterfield, VA	Ordinance	http://www.chesterfield.gov
York County, VA	Ordinance	http://www.yorkcounty.gov/

Virginia Beach, VA	Ordinance	http://www.vbgov.com
Williamsburg, VA	Ordinance	http://www.williamsburgva.gov
Elk River, MN	ordinance	http://www.ci.elk-river.mn.us/
Wheat Ridge, CO	Ordinance	http://www.ci.wheatridge.co.us/

M E M O R A N D U M

DATE: February 23, 2011
TO: Policy Committee
FROM: Brian Elmore, Jose Ribeiro
SUBJECT: Submittal Requirements- Fiscal Impact Study Guidelines

I. Introduction to Memo

The methodology for the ordinance update process includes the development of a fiscal impact study worksheet. Currently, a fiscal impact study is required to be submitted by applicants for residential/mixed use rezoning requests. These studies are often difficult to review, validate, and compare to other studies. To address the problem, staff has created a fiscal impact worksheet (attachment No. 1) which standardizes information and simplifies the review of a fiscal impact study. Staff has also developed an excel spreadsheet designed to perform most of the calculations for applicants. Approximately 400 employee hours have been dedicated to researching, designing, and testing the worksheet. Also, the County's financial manager reviewed and cooperated with the creation of the document. No additional funds have been allocated to the project.

II. Discussion Items

A. Fiscal Impact Study Worksheet

1. Description of Element

-The County has no guidelines for fiscal impact studies. As a result, the studies submitted for review do vary considerably in content, readability, data sources, and assumptions.

2. History/Background

-Currently, the County requests fiscal impact studies from rezoning applicants. These studies are often tailored to accentuate development positives while minimizing fiscal negatives; focusing on employment and economic activity generated by the development rather than the marginal effect on the County's bottom line. Other problems identified by staff in the review of previous submitted fiscal impacts are: above market rate selling prices, questionable housing absorption rates, increases in fees remitted to the County without corresponding costs, and data generally being difficult to find or validate.

3. Comprehensive Plan GSAs, public input, and PC and BOS direction

- There was no specific PC or BOS direction provided regarding this topic. However, development of fiscal impact study guidelines is identified and supported by the 2009

Comprehensive Plan. The Economic Development Goals, Strategies, and Actions (GSA) Section offers the following recommendation:

LU 5.2.1 – Require sufficient documentation to determine the impacts of a proposed development, including but not limited to studies of traffic impact, capacity of public schools, historic and archaeological resources, water quality and quantity, other environmental considerations, and fiscal impact. Develop clear guidelines for the content and methodology to be used to develop the traffic impact (to include upcoming developments on adjacent corridors), fiscal impact (to focus on “as developed” revenues versus costs), and environmental inventory documents.

4. Solution and Policy Options

- Staff has developed a fiscal impact worksheet that stresses both consistency and simplicity. The worksheet uses County data and assumptions to measure how a given project directly affects the County’s budget. The worksheet’s simplicity allows both applicants and staff to quickly create and review the document. Accompanying the worksheet will be an Excel file calculating numbers except a few variables provided by the applicant.

5. Staff recommendation

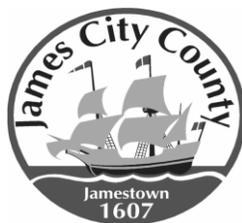
- Staff recommends that the fiscal impact study guidelines be included into the submittal requirements for legislative cases in the zoning ordinance. Once approved, this document will be made available to applicants at no cost.

III. Conclusion

Staff recommends that the Policy Committee review and provide feedback on the proposed fiscal impact study guidelines. These guidelines would ultimately be adopted by the Board of Supervisors and referenced in the Zoning Ordinance.

Attachments:

1. Fiscal Impact Study Guidelines Worksheet



Please make sure to use the accompanying Excel Spreadsheet to calculate the numbers below.

Version 2.10.11

FISCAL IMPACT ANALYSIS WORKSHEET AND ASSUMPTIONS

Please fill out all *applicable* sections. Please use the provided spreadsheet to perform calculations. If space provided is insufficient, please feel free to include additional pages. If you have any questions, please contact the Planning Office at (757) 253-6685 or planning@james-city.va.us

- 1a) PROPOSAL NAME _____
- 1b) Does this project propose residential units? Yes _____ No _____ (if no, skip Sec. 2)
- 1c) Does this project include commercial or industrial uses? Yes ___ No ___ (If no, skip Sec. 3)

Fiscal Impact Analysis Worksheet Section 2: Residential Developments

2a) TOTAL NEW DWELLING UNITS. Please indicate the total number of each type of proposed dwelling unit. Then, *add* the total number of new dwelling units.

Single Family Detached		Apartment	
Townhome/Condominium/Single Family Attached		Manufactured Home	
Total Dwelling Units			

Are any units affordable? Yes _____ No _____ (If yes, how many?) _____

Residential Expenses – School Expenses

2b) TOTAL NEW STUDENTS CREATED. *Multiply* the number of each type of proposed unit from (2a) its corresponding Student Generation Rate below. Then, *add* the total number of students created by the proposal.

Unit Type	Number of Proposed Units (from 2a)	Student Generation Rate	Students Created
Single Family Detached		0.40	
Townhome/Condo/Attached		0.17	
Apartment		0.31	
Manufactured Home		0.46	
Total			

2c). TOTAL SCHOOL EXPENSES. *Multiply* the total number of students created from (2b) by the Per-Student Total Expenses below.

Total Students Generated	Per-Student Operating Expenses	Per-Student Capital Expenses	Per-Student Total Expenses	Total School Expenses
	\$5920.16	\$2176.06	\$8096.22	\$

Residential Expenses - Non-School Expenses

2d) TOTAL POPULATION CREATED. *Multiply* the number of proposed units from (2a) and multiply by the Average Household Size number below.

Total Units Proposed	Average Household Size	Total Population Created
	2.08	

2e) TOTAL NON-SCHOOL EXPENSES. *Multiply* the population created from (2d) by the Per-Capita Non-School Expenses below.

Total Population Created	Per-Capita Non-School Expenses	Total Non-School Expenses
	\$762.14	\$

2f) TOTAL RESIDENTIAL EXPENSES. *Add* school expenses from (2c) and non-school expenses (2e) to determine total residential expenses.

Total School Expenses	Non-School Expenses	Total Residential Expenses
\$	\$	\$

Residential Revenues

2g) TOTAL REAL ESTATE EXPECTED MARKET VALUE. Write the number of each type of units proposed from (2a). Then *determine the average* expected market value for each type of unit. Then, *multiply* the number of unit proposed by their average expected market value. Finally, *add* the total expected market value of the proposed units.

Unit Type:	Number of Units:	Average Expected Market Value:	Total Expected Market Value:
Single Family Detached		\$	\$
Townhome/Condo/Multifamily		\$	\$
Total:		N/A	\$

2h) TOTAL REAL ESTATE TAXES PAID. *Multiply* the total market value from (2g) by the real estate tax rate below.

Total Market Value	Real Estate Tax Rate	Total Real Estate Taxes Paid
\$	0.0077	\$

2i) TOTAL PERSONAL PROPERTY TAXES PAID. *Multiply* the total real estate taxes paid (2h) by the property tax average below.

Real Estate Tax Paid	Personal Property Tax Average	Personal Property Taxes Paid
\$	0.15	\$

2j) TOTAL SALES & MEALS TAXES PAID. *Multiply* the total real estate taxes paid (2h) by the sales and meals tax average below:

Real Estate Tax Paid	Sales and Meals Tax Average	Total Sales & Meals Taxes Paid
\$.09	\$

2k) TOTAL CONSERVATION EASEMENT TAXES PAID. If the proposal contains a conservation easement, *multiply* the size of the proposed conservation easement by the conservation easement assessment rate.

Proposed Conservation Easement Size	Assessment Rate	Conservation Easement Taxes Paid
	\$2000/acre (prorated)	\$

2l) TOTAL HOA TAXES PAID. If the HOA will own any property that will be rented to non-HOA members, *multiply* the expected assessed value of those rentable facilities by the real estate tax rate below.

HOA Property Type	Total Assessed Value	Real Estate Tax Rate	Total HOA Taxes Paid
		.0077	\$

2m) TOTAL RESIDENTIAL REVENUES. *Add* all residential taxes paid to the County from (2h) through (2l).

Total Residential Revenues	\$
-----------------------------------	----

2n) RESIDENTIAL FISCAL IMPACT. Subtract total residential revenues (2m) from total residential expenses (2f).

Total Residential Expenses	Total Residential Revenues	Total Residential Fiscal Impact
		\$

Fiscal Impact Analysis Worksheet Section 3: Commercial and Industrial Developments

Commercial and Industrial Expenses

3a) TOTAL NEW BUSINESSES. How many new businesses are proposed? _____
(include all businesses that will rent or lease space at the location as part of the proposal, including probable tenants of an office park or strip mall).

3b) TOTAL COMMERCIAL EXPENSES. *Multiply* the total business real estate expected assessment value from (3c) below by the Commercial Expenses Rate below.

Total Expected Assessment Value	Commercial Expense Rate	Total Commercial Expenses
	0.0045	\$

Commercial & Industrial Revenues

3c) TOTAL REAL ESTATE EXPECTED ASSESSMENT VALUE. *Estimate* the expected real estate assessment value, at buildout, of all proposed commercial element properties below.

Proposed Business Properties (by use and location)	Expected Assessment Value
Total:	\$

3d) TOTAL REAL ESTATE TAXES PAID. *Multiply* the total expected market property value from (3c) by the real estate tax rate below.

Expected Market Value	Real Estate Tax Rate	Real Estate Taxes Paid
	0.0077	\$

3e) TOTAL BUSINESS PERSONAL PROPERTY TAXES PAID. *Multiply* the total business capitalization for each proposed commercial element by the business personal property tax rate below. Then *add* the total personal property taxes paid.

Proposed Business	Total Business Capitalization	Personal Property Tax Rate	Total Business Property Taxes Paid
		0.01	
		0.01	
		0.01	
Total:		N/A	\$

3f) TOTAL BUSINESS MACHINERY AND TOOLS TAXES PAID. If any manufacturing is proposed, *multiply* the total business capitalization for each proposed manufacturing element by the business machinery and tools tax rate below. Then, *add* the machinery and tools tax paid.

Proposed Business	Total Business Capitalization	Machinery and Tools Tax Rate	Total Business Property Taxes Paid
		0.01	
		0.01	
		0.01	
Total:		N/A	\$

3g) TOTAL SALES TAXES PAID. *Estimate* the applicable total gross retail sales, prepared meals sales, and hotel/motel room sales for proposal's commercial elements below. Then, *multiply* the projected commercial gross sales by the applicable sales tax rates. Then, *add* the total sales taxes paid.

Tax Type	Projected Gross Sales	Sales Tax Rates	Sales Taxes Paid
Retail Sales		0.01 of Gross Retail Sales	
Prepared Meals		0.04 of Prepared Sales	
Hotel, Motel		0.02 of Gross Sales*	
Total:	N/A	N/A	\$

*Actual Occupancy Tax is 5% of Gross Sales, however, 60% of those funds are targeted to tourism.

3h) TOTAL BUSINESS LICENSES FEES PAID. Estimate each business element's total gross sales. *Multiply* each business element's projected gross sales by the Annual Business License rate to determine annual business licenses fee paid.

Business Type* (see exhibit sheet)	Projected Total Gross Sales	Business License Rate	Annual Business License Fees Paid
Professional Services		0.0058	
Retail Services		0.0020	
Contractors		0.0016	
Wholesalers		0.0005	
Exempt*		No fee due	
Other Services		0.0036	
Total	N/A	N/A	\$

3i) TOTAL COMMERCIAL AND INDUSTRIAL REVENUES. *Add* the total taxes and fees paid by all of the business elements from (3d) through (3h).

Total Commercial and Industrial Revenues	\$
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3j) COMMERCIAL FISCAL IMPACT. *Subtract* total commercial and industrial revenues (3i) from total commercial and industrial expenses (3b).

Total Commercial Expenses	Total Commercial Revenues	Total Commercial Fiscal Impact
		\$

3k) TOTAL PROPOSED FISCAL IMPACT. *Add* residential fiscal impacts (2n) and commercial fiscal impacts (3j).

Residential Fiscal Impact	Commercial Fiscal Impact	Total Proposed Fiscal Impact
		\$

Fiscal Impact Analysis Worksheet Section 4: Current Land Use

Current Residential Use (If there are no existing residential units, skip to (4g)).

4a) TOTAL CURRENT DWELLING UNITS. Please indicate the total number of each type of existing dwelling unit. Then, *add* the total number of existing dwelling units.

Single Family Detached		Apartment	
Townhome/Condominium/Single Family Attached		Manufactured Home	
Total Dwelling Units			

Residential Expenses - School Expenses

4b) TOTAL CURRENT STUDENTS. *Multiply* the number of existing units from (4a) by its corresponding Student Generation Rate below. Then, *add* the total number of existing students.

Unit Type	Number of Existing Units	Student Generation Rate	Existing Students
Single Family Detached		0.40	
Townhome/Condo/Attached		0.17	
Apartment		0.31	
Manufactured Home		0.46	
Total		N/A	

4c) TOTAL CURRENT SCHOOL EXPENSES. *Multiply* the total number of current students from (4b) by the per-student school cost below.

Number of Existing Students	Per-Student School Cost	Current School Expenses
	\$8096.22	\$

Residential Expenses - Non-School Expenses

4d) TOTAL CURRENT POPULATION. *Multiply* the total number of existing units from (4a) by average household size below.

Total Existing Units	Average Household Size	Total Current Population
	2.08	\$

4e) TOTAL CURRENT NON-SCHOOL EXPENSES. *Multiply* the current population from (4d) by per-capita non-school expenses below.

Total Current Population	Per-Capita Non-School Expenses	Current Non-School Expenses
	\$762.14	\$

4f) TOTAL RESIDENTIAL EXPENSES. *Add* school expenses from (4c) and non-school expenses from (4e).

School Expenses	Non-School Expenses	Residential Expenses

\$	\$	\$
----	----	----

Residential Revenues

4g) TOTAL CURRENT ASSESSMENT VALUE. *Search* for each residential property included in the proposal on the Parcel Viewer at <http://property.iccegov.com/parcelviewer/Search.aspx>. *Indicate* each property's total assessment value below. Then, *add* total assessment values.

Property Address and Description	Assessment Value
	\$
	\$
	\$
Total:	\$

4h) TOTAL CURRENT REAL ESTATE TAXES PAID. *Multiply* the total assessment value from (4g) by the real estate tax rate below.

Total Assessment Value	Real Estate Tax Rate	Real Estate Taxes Paid
	.0077	\$

4i) TOTAL CURRENT PERSONAL PROPERTY TAXES PAID. *Multiply* total real estate taxes paid from (4h) by the personal property tax average below.

Real Estate Tax Paid	Personal Property Tax Average	Personal Property Paid
	0.15	\$

4j) TOTAL CURRENT SALES AND MEALS TAXES PAID. *Multiply* the total real estate taxes paid from (4h) by the sales and meals tax average below.

Real Estate Tax Paid	Sales and Meals Tax Average	Average Excise Tax Paid
	.09	\$

4k) TOTAL CURRENT RESIDENTIAL REVENUES. *Add* all current residential taxes paid to the County from (4h) through (4j).

Total Current Residential Revenues	\$
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4l) CURRENT RESIDENTIAL FISCAL IMPACT. *Subtract* total residential revenues (4k) from total residential expenses (4f).

Total Residential Expenses	Total Residential Revenues	Total Residential Fiscal Impact
		\$

4m) FINAL RESIDENTIAL FISCAL IMPACT. *Subtract* current residential fiscal impact from (4l) from proposed residential fiscal impact from (2n).

Proposed Residential Impact	Current Residential Impact	Final Residential Fiscal Impact
		\$

Current Commercial Use

Current Commercial Expenses (if there are no current businesses or commercial properties, skip to (5k).

5a) TOTAL CURRENT BUSINESSES. How many businesses exist on the proposal properties?
_____ (include all businesses that rent or lease space at the location).

5b) TOTAL CURRENT COMMERCIAL EXPENSES. *Multiply* the current number of businesses operating on the proposal properties by the per-business expense rate below.

Total Expected Assessment Value	Commercial Expense Rate	Total Commercial Expenses
	0.0045	\$

Current Commercial Revenues

5c) TOTAL CURRENT ASSESSMENT VALUE. *Search* for each commercial property included in the proposal on the Parcel Viewer at <http://property.iccegov.com/parcelviewer/Search.aspx>. *Indicate* each property's total assessment value below. Then, *add* total assessment values.

Addresses	Assessment Value	Real Estate Tax Rate	Real Estate Tax Paid
		.0077	
		.0077	
Total:			\$

5d) TOTAL CURRENT BUSINESS PERSONAL PROPERTY TAXES PAID. *Multiply* the total business capitalization for each current commercial element by the business personal property tax rate below. Then *add* the total personal property taxes paid.

Current Business	Total Business Capitalization	Personal Property Tax Rate	Business Property Taxes Paid
		0.01	
		0.01	
		0.01	
Total:		N/A	\$

5e) TOTAL CURRENT MACHINERY AND TOOLS TAX PAID. If any manufacturing exists, *multiply* the total capitalization for manufacturing equipment by the business machinery and tools tax rate below.

Current Business	Total Business Capitalization	Personal Property Tax Rate	Machinery and Tools Tax Paid
		0.01	\$

• Businesses will paying tools tax will pay it instead business personal property.

5f) **TOTAL CURRENT SALES TAXES PAID.** *Estimate* the applicable total gross retail sales, prepared meals sales, and hotel/motel sales for existing commercial elements below. Then, *multiply* the projected commercial gross sales by the applicable sales tax rates. Then, *add* the total sales taxes paid.

Activity	Projected Gross Sales	Tax Rate	Sales Taxes Paid
Retail Sales		0.01 of Gross Retail Sales	
Prepared Meals		0.04 of Prepared Sales	
Hotel, Motel		0.02 of Gross Sales*	
Total:	N/A	N/A	\$

*Actual Occupancy Tax is 5% of Gross Sales, however, 60% of those funds are targeted to tourism.

5g) **TOTAL CURRENT BUSINESS LICENSES FEES PAID.** *Estimate* each current business element's total gross sales. Then, *multiply* each business element's projected gross sales by the Annual Business License rate to determine annual business licenses fee paid. Then, *add* the total business license fees paid.

Business Type	Gross Sales	Business License Rate	Annual Business License Fees Paid
Professional Services		\$0.0058	
Retail Sales		\$0.0020	
Contractors		\$0.0016	
Wholesalers		\$0.0005	
Manufacturers		No tax	
Other Services		\$0.0036	
Total:	N/A	N/A	\$

5h) **TOTAL CURRENT COMMERCIAL REVENUES.** *Add* all current commercial revenues paid by existing businesses from (5c) through (5g).

Total Current Commercial Revenues	\$
------------------------------------------	----

5i) **CURRENT COMMERCIAL FISCAL IMPACT.** *Subtract* total commercial revenues (5h) from total residential expenses (5b).

Total Commercial Expenses	Total Commercial Revenues	Total Commercial Fiscal Impact
		\$

5j) **FINAL COMMERCIAL FISCAL IMPACT.** *Subtract* current commercial fiscal impact from (5i) from proposed commercial fiscal impact from (3j).

Proposed Commercial Impact	Current Commercial Impact	Final Commercial Fiscal Impact
		\$

5k) FINAL FISCAL IMPACT. *Subtract* the final commercial fiscal impact from (5i) from final residential fiscal impact from (4m).

Final Residential Impact	Final Commercial Impact	Final Fiscal Impact
		\$

Fiscal Impact Worksheet Section 6: Phasing

Residential Phasing

6a) *Copy and paste* the residential phasing template from the accompanying Excel sheet to the page below.

Commercial Phasing

6b) *Copy and paste* the commercial phasing template from the accompanying Excel sheet to the page below.

Final Phasing Projections

6c) *Copy and paste* the final phasing projection from the accompanying Excel sheet to the page below.

Fiscal Impact Worksheet Section 7: Employment

7a) *Copy and paste* the employment projections from the accompanying Excel sheet to the page below.

DEFINITIONS AND ASSUMPTIONS

Apartment – a building used, or intended to be used as the residence of three or more families living independently of each other. (JCC Code 24-1-2). Tenants have no equity in the dwelling.

Assessment Value – assessment value is assumed to be within 1% of market value. Market value drives assessment value.

Buildout – all data and assumptions reflect the fiscal impact of the proposal at buildout.

Commercial Expense Rate – The commercial expense rate uses the proportional valuation method (see below) to determine individual business expenses. Under that method, businesses are collectively responsible for contributing 15% of the non-school budget (\$ 10,391,694). Dividing this portion of the budget by the total commercial real estate in the County (\$2,060,690,000) gives a commercial expense rate of 0.005. This rate assumes that the costs of providing County services to a business are directly correlated with that businesses' property assessment. This assumes more valuable properties have generally more intense uses, incurring greater County expenses.

Condomium – a building, or group of buildings, in which units are owned individually and the structure, common areas and common facilities are owned by all the owners on a proportional, undivided basis. (JCC Code 24-1-4)

Contractor - any person, firm or corporation accepting or offering to accept orders or contracts for doing any work on or in any building or structure, any paving, curbing or other work on sidewalks, streets, alleys, or highways, any excavation of earth, rock, or other materials, any construction of sewers, and any installation of interior building components. (Code of Virginia § 58.1-3714)

Direct Impact – The worksheet only calculates direct financial impacts on the County budget. The worksheet is only one of many development management tools, and, as such, does not make a determination whether any type of development 'should' happen based solely on that proposal's fiscal impact. The tool is not designed to measure non-budget impacts, such as increased traffic, or non-budget benefits, such as forwarding the goals of the Comprehensive Plan. Costs incurred by other entities, such as other localities or the State, remain uncounted.

Dwelling – any structure which is designed for use for residential purposes, except hotels, motels, boardinghouses, lodging houses, and tourist cabins. (JCC Code 24-1-4.1)

Exempt – certain types of business activities or products are exempted from annual County business licenses. These include manufacturers, insurance agencies, apartment complexes, and gasoline sales.

Fees & Licenses – all fees collected by the County, including business & professional licenses, planning fees, building permit fees, stormwater fees, environmental inspection fees, septic tank fees, dog licenses, and motor vehicle licenses, are deducted from the per- capita and per-business budgetary costs of each department that collects them.

Fiscal Impact Analysis – the County has created a set of standardized data and assumptions to streamline both the creation and review of fiscal impact studies. The County had no itemized list of questions for fiscal impact study creators to answer, resulting in portions of fiscal impact studies with no bearing on the County’s budgetary bottom line. The guesswork is removed from the creation of these documents. The data used by fiscal impact study authors also came from a myriad of sources, often within the County, which were difficult to verify. The fiscal impact analysis worksheet allows consistency across multiple fiscal impact studies, as well.

Fiscal Impact Analysis Worksheet – The worksheet helps the applicant present relevant data to the County, using data verified by the County. The worksheet provides consistency across all fiscal impact analyses.

Non-School Expenses – Non-school expenses includes all FY10 non-school budget spending. Non-School expenses are calculated using the Proportional Variation method. Using the Proportional Variation method, residents and businesses are assumed to be responsible for differing percentages of the County’s non-school spending.

Manufacturing – assembly of components, pieces, or subassemblies, or the process of converting raw, unfinished materials into different products, substances, or purposes.

Market Value – market value is assumed to be within 1% of assessment value. Market value drives assessment value.

Manufactured Home – A Manufactured Home is a structure not meeting the specifications or requirements or a manufactured home, designed for transportation, after fabrication. (JCC Code 24-1-8.1) The only Manufactured Homes counted in the Student Generation figure are those in designated Manufactured Home parks. Manufactured Homes on individual lots are indistinguishable from single-family detached dwellings for the purposes of the worksheet.

Phasing – all residential developments are assumed to have an absorption rate of 20% per annum. All commercial development are assumed to have an absorption rate of 20% per annum. The date stamp Year 1 in the phasing template represents 365 days after Board of Supervisors approval.

Professional Services - work performed by an independent contractor within the scope of the practice of accounting, actuarial services, architecture, land surveying, landscape architecture, law, dentistry, medicine, optometry, pharmacy or professional engineering. Professional services shall also include the services of an economist procured by the State Corporation Commission. (Code of Virginia_§ 2.2-4301)

Proportional Valuation Impact – proportional valuation impact assumes that a proposed residential or commercial project’s fiscal impact is proportional to the percentage of the total tax base that is either residential or commercial.

James City’s proportional valuation is calculated using the County’s Real Estate Mapping GIS program. The program calculated a aggregate property assessment value of \$13,763,228,800 for the entire County. The program calculated an aggregate commercial and industrial assessment value of \$2,060,690,000. Dividing the commercial value by the total value shows that commercial and industrial properties compose 15% of the total property tax base, and are responsible for 15% of County non-school expenses. This results in residential development being responsible for Schools impacts and 85% of non-school County operations. The proportional valuation method does not factor other assorted residential and commercial taxes, fees, and licenses into account. As 15% of the tax base, businesses contribute 15% for all County non-school expenses. As 85% of the tax base, residents contribute 85% for all County non-school expenses.

Furthermore, individual business expenses to the County are calculated using the proportional valuation impact method. (See Commercial Expense Rate)

Per-Business Expense Rate – the per-business expense rate assumes that the County incurs non-school expenses equal to 0.04% of the commercial real estate assessment of any given business.

Per Capita Evaluation Method – this worksheet uses the Per Capita Evaluation method to assign per-capita and per-business costs to non-school expenses. This method assumes that current per-capita and per-business expenditures and service levels are consistent with future per-capita and per-business expenditures and service levels.

Per Capita – per capita calculations divide each department’s spending, minus fees and State contributions, by the current County population. This number excludes institutional residents in detention at correctional facilities and mental institutions. Total population is determined from James City County Planning Division figures.

JCC Population 2010	Dwelling Units 2010
62879*	30221**

*JCC Planning Division Population Count Minus Institutional Population

**JCC Codes Compliance Division Housing Unit Count + Apartment Count

Per Student – per student calculations divide County contributions to WJCC Schools, minus State educational contributions, by the total number of K-12 students living in James City and also attending WJCC Schools. Total students are determined from Williamsburg James City County Schools 2009-2010 School Year enrollment reports.

Per Business – per business calculations divide each departments spending, minus fees and State contributions, by the total number of County businesses. Total businesses are determined by the number of business licenses issued.

Total Number of JCC Businesses	5400*
Percentage of Property Tax Assessments	15%**

*James City County Commissioner of the Revenue

**Commercial impacts are calculated on a proportional variation process

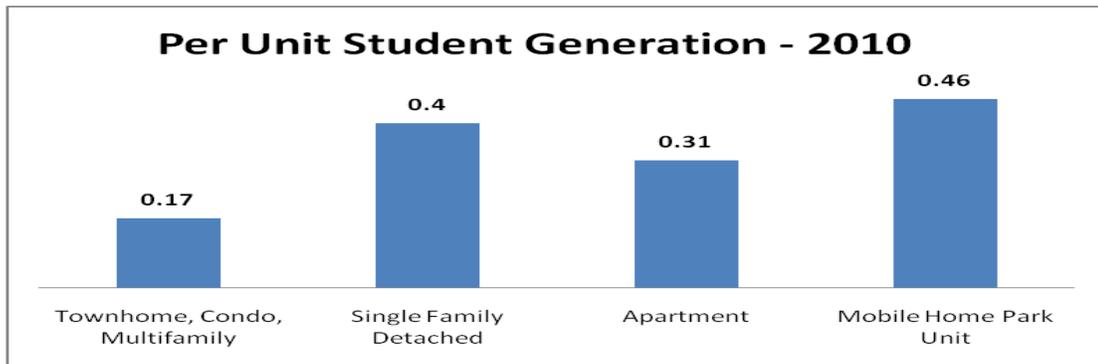
Proffer – proffers paid for schools can only be applied toward the capital expense portion of per-student school expenses. (See Board of Supervisors’ Proffer Policy).

Retail Services – display and sale of merchandise at retail or the rendering of personal services, such as food, drugs, clothing, furniture, hardware, appliances, barber and beauty, antiques, and household uses, and other uses. (JCC Code 24-1-10)

Single Family Detached Dwelling – A detached structure arranged or designed to be occupied by one family, the structure only having one dwelling unit. (JCC Code 24-1-4.1)

State Contributions – The State contributes both targeted and unspecified funds to the James City County budget. Funds for specific departments were subtracted from the budget totals of those departments. Unspecified state fund amounts were compiled, then evenly subtracted (7.75% of each department total) across all non-school departments.

Student Generation Rate - The student generation rate the number of students produced by a individual dwelling unit per year. Different domestic units produce students are different rates. Using WJCC enrollment figures, an address was found for WJCC student residing in James City County. Using the James City County Real Estate Division’s Property Information map on the James City County website, the number of students from each subdivision was determined. Using the Real Estate Division’s Real Estate Parcel Count, the number of improved lots in each neighborhood was determined. Total students from each neighborhood were divided by the total number of units from that neighborhood to determine the average number of students per housing unit. The student generation numbers for 256 subdivisions was determined this way, along with the same method for counting students from apartments and Manufactured Home parks.



Townhome – in a structure containing three or more dwelling units, a dwelling unit for single family occupancy, not more than three stories in height, attached by one or more vertical party walls extending to the roof sheathing without passageway openings to one or more additional such dwelling units, each of which is served by an individual exterior entrance or entrances. (Sec. 24-1-12.1)

Annual Update Methodology – The Williamsburg-James City County school enrollment spreadsheet is the trigger for the Fiscal Impact Worksheet’s annual update. All other data will be available when the enrollment Excel file becomes available in September. To ensure the validity of County data and assumptions, the Fiscal Impact Worksheet should be updated annually. Some data will merely be updated, while other data, such as the school Student Generation Rate, will be used to create long-term averages.

Data Required for Update

1. Real Estate Assessment (REA)’s Parcel Count sheet. The Parcel Count sheet is a constantly updated file showing developed parcels and assessment values by subdivision.
2. The Property Information Network (PIN) is always available from at <http://property.jccgov.com/parcelviewer/Search.aspx> . The PIN will be used to reconcile WJCC subdivision classifications with those approved by Planning.
3. Acquire the most recent population estimate from the Planning office. Estimates are updated quarterly.
4. Acquire the most current number of building permits from Codes Compliance. Their records will show the net change in living units (residential C.O.’s minus demolitions) in the County for the year.
5. Call local apartment complexes and determine how many units each has for rental. This information will be used to update apartment student enrollment data.
6. The GIS program is constantly updated by REA Mapping staff. The GIS program will be used to sum total residential and commercial property value in the County.

7. Financial and Management Services (FMS) will have a copy of the most recent fiscal year budget. The budget will be used to determine the per-student, per-capita, and per-business costs of County services.

Reference

Burchell, Robert and David Listokin. (1978). *The Fiscal Impact Handbook*.
New Jersey: Rutgers Center for Urban Policy Research.

MEMORANDUM

DATE: February 23, 2011
TO: Policy Committee
FROM: Sarah Propst, Planner
SUBJECT: Submittal Requirements-Environmental

I. Environmental Submittal Requirements

- A. An environmental analysis submittal should accompany legislative case or site plan submittals. A thorough environmental analysis will ensure that development is not planned for areas which may not be able to accommodate it due to environmental constraints. The Planning Director could waive the requirement for smaller projects or those which will not have an environmental impact.
- B. According to the scope of work for the Zoning Ordinance update, current submittal procedures should be examined for both administrative and legislative cases and a document should be developed that outlines information needed to evaluate the environmental impacts of development. This guidance document should address the goals of the Comprehensive Plan and provide specific requirements to increase predictability.

II. Discussion Items

- A. **Topic One** – Legislative case submissions do not include uniform information needed to ensure that the proposed development is appropriate for the conditions of the site.
1. Description of issue/problem
 - An area proposed for development that is located within a floodplain, RPA, contains steep slopes, contains lots that won't perk but are planned to have septic, or contain a rare or threatened species, etc. should be identified early in the process.
 - Applicants do not have a standardized form for environmental requirements. The County receives incomplete information for legislative cases and Staff is unable to make an assessment of the environmental viability of plan. Knowledge of environmental constraints ensures that a realistic estimate of buildable area, number of lots, or access can be presented to the Board of Supervisors. This will increase predictability at the site plan level.
 2. History
 - A section was added to the Zoning Ordinance (Sec. 24-148 d, e) in 2010 for enhanced conceptual plans, which includes environmental, traffic, infrastructure, and other analysis. However, enhanced conceptual plans are voluntary.

- Peleg's Point and Michelle Point are examples of cases which could have been more predictable if a complete environmental analysis had been submitted during the legislative process.
 - Mason Park and Stonehouse were much more predictable because of the more complete analyses which were submitted during the legislative process.
3. Comprehensive Plan GSAs, public input, and PC and BOS direction
- LU 1.5.2 Expect developments subject to zoning or special use permit review to mitigate their impacts through the following means:
 - 1.5.2.1 Requiring sufficient documentation to determine the impacts of a proposed development including, but not limited to, studies of traffic impact, capacity of public schools, historic or archaeological resources, **water quality and quantity, other environmental considerations**, and fiscal impact. Develop clear guidelines for the content and methodology to be used to develop the traffic impact (to include upcoming development on adjacent corridors), fiscal impacts (to focus on "as developed" revenues versus costs), and environmental inventory documents.
 - ENV1.2 Promote the use of Better Site Design, Low Impact Development (LID), and effective Best Management Practices (BMPs). Promote these techniques by:
 - 1.2.5 Promoting early submission of environmental inventories in order to protect trees, County wetlands, and highly erodible soils; and to limit impervious cover.
 - Additionally, many actions in the Environmental section of the Comprehensive Plan seek to ensure that developments protect sensitive ecosystems and features.
4. Solutions and policy options
- Many localities have requirements for environmental inventories but they are contained within a variety of ordinance sections such as Tree Preservation or Stormwater ordinances. Several components of an environmental inventory are located in the James City County Chesapeake Bay Preservation Ordinance.
 - Some localities allow exemptions for developments of less than a certain size that do not contain conservation or preservation areas. These are defined by features such as floodplains, wetlands, waterbodies, high quality forests, steep slopes, species of special concern, or areas of environmental significance.
 - A policy could be created for environmental inventory requirements for legislative cases and referenced in section 24-23 Submittal Requirements.
 - Please see the attached Environmental Constraints Analysis for an example of the inventory requirements.
 - One minor correction needs to be made to Sec 24-23(1)b 2 "An environmental inventory in accordance with the James City County Natural Areas Resource Policy;" The policy is called the Natural Resource Policy, not Natural Areas Policy.

5. Staff recommendation

- Staff recommends that an environmental inventory requirement be adopted for legislative cases. All requirements would be presented to applicants in a checklist format to increase predictability, eliminate confusion, and identify potential problems early in the review process.
- Exemptions could be provided for small sites, redevelopment, or sites lacking environmentally sensitive features.
- The minor text change to Sec 24-23(1)b2 should be adopted.

B. **Topic Two-** The Zoning Ordinance should include a set of environmental requirements for administrative site plans and subdivisions. Uniform environmental information is critical in determining whether a development is appropriate for the site on which it is being proposed.

1. Description of issue/problem

- Environmental information received with administrative cases is not always consistent and can delay approval.
- In order to ensure that applicants are able to move through the site plan or subdivision process in a predictable manner, environmental inventory requirements should be created that will explain specifically what environmental information is needed.
- The environmental requirements for a site plan are currently found in Sec. 24-145 and include: streams and bodies of water, topography, woodline before site preparation.
- Submittal requirements for preliminary plans for subdivisions are included in Sec. 19-27 and 19-28. Section 19-27 includes: topography, and a soils map
- The Chesapeake Bay Preservation Ordinance Sec. 23-10 already requires some of the additional information which would be included in an environmental inventory. Putting it in the Zoning Ordinance would make it more understandable to applicants as to what is required for a site plan.

2. History

- A section was added to the Zoning Ordinance (Sec. 24-148 d, e) in 2010 for enhanced conceptual plans, which includes environmental, traffic, infrastructure, and other analysis. This is a voluntary process recommended for legislative cases.
- Other localities provide a list of the specific information needed when an application is submitted. If a plan is turned in without the necessary information an application may be denied.
- The Chesapeake Bay Preservation Ordinance already requires some of the additional information which would be included in an environmental inventory. Putting these requirements in the Zoning Ordinance would clarify, in one location, what is required with a site plan or subdivision submission.

3. Comprehensive Plan GSAs, public input, and PC and BOS direction
 - ENV1.2 Promote the use of Better Site Design, Low Impact Development (LID), and effective Best Management Practices (BMPs). Promote these techniques by:
 - 1.2.5 Promoting early submission of environmental inventories in order to protect trees, County wetlands, and highly erodible soils; and to limit impervious cover.

4. Solutions and policy options
 - Include a list of the information to be included in the environmental inventory and require that it is completed by a qualified professional.
 - Requirements could be listed, for site plans in Sec. 24-145 and for subdivisions in Sec 19-27. The checklist items are already in the Zoning, Subdivision, or Chesapeake Bay Protection Ordinance and would be listed in one location for clarity. The following environmental components would be included in Sec. 24-145 and Sec. 19-27:
 - o All existing easements
 - o Disturbed area, impervious cover, and percent impervious estimate
 - o Flood zone designation
 - o Resource Protection Areas
 - o Soils (highly erodible, hydric, permeable, hydrologic soils group A & B)
 - o Full environmental inventory consistent with section 23-10(2) of the County's Chesapeake Bay Preservation Ordinance (perennial stream assessment, delineated wetlands, limits of work)
 - o Demonstration that the project complies with section 23-9(b)(1), (2), & (3) of the County's Chesapeake Bay Preservation Ordinance (how disturbance is being minimized, indigenous vegetation preserved, and impervious cover minimized)
 - o County watershed
 - o Steep slopes (grade 25% or more and covering an area of 5,000 sq ft or more)
 - o Sites known for populations of rare or threatened species
 - o Locations of existing conservation easements
 - o Wooded areas and wildlife habitat
 - o Description of Better Site Design or Low Impact Development (LID) techniques being used

5. Staff recommendation
 - Staff recommends that the Policy Committee support the inclusion of an environmental inventory requirement in the Zoning Ordinance and the Subdivision Ordinance.

III. Conclusion

Staff recommends that the Policy Committee support the adoption of an environmental inventory checklist for legislative cases and the inclusion of environmental inventory requirements for administrative site plan and subdivision applications.

Environmental Constraints Analysis for legislative cases

<p style="text-align: center;"><u>Hydrologic</u></p> <ul style="list-style-type: none"> • Location of streams and other water bodies (lakes, ponds, impoundments, etc.) • Which watershed (e.g. Powhatan, Yarmouth, Gordon, Skiff, Ware) • Approximate location of perennial and intermittent streams • Description of the receiving stream • Approximate location of tidal and non-tidal wetlands (sinkholes, wetland, springs, seeps, etc.) • Floodplain delineation for 100 and 500 year storm events including tidal flooding if applicable <p style="text-align: center;"><u>Context</u></p> <ul style="list-style-type: none"> • Nature of existing and granted, but not yet built, surrounding properties and neighborhoods – Reference JCC plan number 	<p style="text-align: center;"><u>Prohibited or Restricted Development Areas</u></p> <ul style="list-style-type: none"> • Required buffers • Sites with known populations of rare, threatened or endangered species of plants or animals • Preservation of trees according to Chesapeake Bay Ordinance • Preliminary locations of Resource Protection Areas • Preliminary locations of jurisdictional wetlands • Locations of existing conservation easements <p style="text-align: center;"><u>Land Features or Characteristics</u></p> <ul style="list-style-type: none"> • Approximate locations of steep slopes greater than 25 % based on County GIS or better (list source). The scale for which this shall be provided is at the discretion of the County Environmental Division Director • Soils, especially prime agricultural lands and HSG A&B soils based on the County soil survey • Soils erodability based on the County soil survey • Pre-development topography based on County GIS or better (list source) • Areas of forest, woodland cover and wildlife corridors 	<p style="text-align: center;"><u>Proposed Site Changes</u></p> <ul style="list-style-type: none"> • Proposed limit of disturbance • Estimate of impervious cover area and percent impervious area (preliminary or conceptual), including all parking, roads, sidewalks, buildings, etc. • Description of Better site design or low impact development techniques (pervious pavement, walks, infiltration areas, etc.) if they are used • Proposed conceptual stormwater management plan, including preliminary pre and post-development discharge analysis • Description of how disturbance is being minimized, indigenous vegetation is preserved, and impervious cover is minimized
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MEMORANDUM

DATE: February 23, 2011
TO: Policy Committee
FROM: Melissa Brown
SUBJECT: Article VII. Nonconformities

Introduction

The current zoning ordinance references Nonconformities in Sections 24-628 through 24-637. The intent of these sections is to regulate nonconforming uses in a manner consistent with sound planning and zoning principles. Generally, over time, nonconforming uses should be discontinued or altered in favor of conforming uses with the understanding that such uses need not be entirely static and may change under certain circumstances.

Discussion Items

1. Clearly identify type of nonconformity at issue
 - The ordinance defines nonconforming use as any activity using land, building, sign lot, and/or structure for purposes which were legally established prior to the effective date of this chapter or subsequent amendment to it, and which would not be permitted to be established in a zoning district in which it is located by the currently adopted regulations. The ordinance does not clearly address nonconforming signage or structures.
2. History
 - March 1, 1969 - Zoning Ordinance adopted with Nonconformities reference
 - May 18, 1987 – Expansion of section adopted dealing with alterations and verifications.
 - April 13, 1999 – Ordinance takes current form and two year time limit is added for expiration of a nonconforming use.
 - November 12, 2002 – Addresses replacement of nonconforming mobile homes.
3. Comprehensive Plan GSAs, public input, and PC and BOS direction
 - There was no specific PC or BOS direction regarding this topic. The County Attorney's Office requested the amendments in order to address issues arising from recent cases such as Season's Trace and Autumn West.
4. Solutions and policy options
 - Based on research and commentary from the attorney's staff recommends addressing nonconforming signs, structures and uses in three separate sections.
 - Attached is the Caroline County Code recommended by the attorneys. For reference, other examples are included in the packet.
5. Staff recommendation
 - Staff recommends amending the ordinance to address the various types of nonconformities in separate sections

Conclusion

Staff recommends that the Policy Committee support the revisions proposed to Article VII. Nonconformities.

Attachments

1. Caroline County Ordinance

Article XVI
Nonconforming Lots, Uses, and Structures

(Repealed and Replaced March 28, 2006)

Section 1 - Intent

The purpose of this Article is to regulate nonconforming uses in a manner consistent with good planning practices and sound zoning principles. It is the intent that over time, nonconforming uses will be discontinued in favor of uses conforming to this Ordinance and the zoning map. It is also recognized that under certain circumstances, nonconforming uses may change so as to become less non-conforming according to law and the provisions of this Ordinance.

A change in title or possession, or renewal of a lease, of any such nonconforming land, lot, building, or structure does not constitute a change affecting the continuance of the use.

Section 2 - CONTINUATION OF NONCONFORMING USES

A nonconforming use may continue as it existed when it became nonconforming. A nonconforming use shall not be changed, altered, repaired, restored, replaced, relocated or expanded in any manner, including the addition of new accessory or incidental uses, except as provided for in this Article.

Section 3 - DISCONTINUANCE OR ABANDONMENT OF A NONCONFORMING USE

If any nonconforming use is discontinued for a period of two (2) years, it shall lose its nonconforming status, and any further use shall conform to the provisions of this Ordinance.

Section 4 - PERMITTED CHANGES OF NONCONFORMING USES

A nonconforming use may only be changed, altered, repaired, restored, replaced, relocated or expanded only as follows:

- A. A nonconforming use may change to a conforming use.
- B. A nonconforming use may change to a more restrictive nonconforming use in accordance with the following provisions:
 - 1. A nonconforming use may only be changed to a more restrictive nonconforming use upon approval by the zoning administrator. The zoning administrator's approval, which shall not be given until the nonconforming status of the use has been verified in accordance with Section 8 of this Article, shall include a determination in writing that the proposed use is "more restrictive" than the existing nonconforming use. If the zoning administrator determines the proposed use is not "more restrictive" than the existing nonconforming use, the application for a change to a more restrictive nonconforming use shall be denied. An appeal of such a determination may be made to the Board of Zoning Appeals as provided for in this Ordinance.
 - 2. In determining whether a proposed use is a "more restrictive" nonconforming use, the administrator shall consider, among other things, the following factors:
 - a. Whether the proposed use will change the size and scope of the existing use, and the magnitude of such change; and
 - b. Whether the proposed use will increase the intensity of the nonconforming use, including hours of operation, traffic, noise, and similar impacts; and,
 - c. Whether the proposed use will have a more or less detrimental effect on conforming uses in the neighborhood.

3. Upon approval of the change to a more restrictive nonconforming use, site plan approval, as set forth in this Ordinance, shall be required.
- C. Minor alterations, cosmetic modifications, interior renovations and similar changes for nonconforming uses may be permitted subject to the following standards:
1. The change(s) shall not increase the physical area occupied by any component of the nonconforming use, and shall not increase the gross floor area of any nonconforming structure; and
 2. The construction shall meet all current zoning ordinance requirements for the zoning district in which the nonconforming use is located, or the zoning district assigned by the zoning administrator as a part of the nonconforming use verification process, whichever requirements are more strict.
- D. A nonconforming use may be repaired so long as the repair constitutes only routine maintenance necessary to keep the structure in the same general condition it was in when it originally became nonconforming.
- E. A nonconforming use may be restored or replaced as follows:
1. A nonconforming use that is damaged by any cause to any extent not exceeding fifty (50) percent of its current appraised value according to the records of the Commissioner of Revenue may be restored to its condition prior to such damage, provided such restoration is begun within twelve (12) months of the date of the damage and completed within eighteen (18) months of the date of the damage.
 2. Restoration shall not include any minor alterations, cosmetic modifications, interior renovations or similar changes except as permitted in subsection C of this Section, nor shall such restoration include any expansion unless approved under the provisions of subsection F of this Section. Restoration may include changes that make the use less nonconforming provided a determination that the use is less nonconforming is made in accordance with subsection B of this Section.
 3. Prior to any restoration permitted by this Section, the nonconforming status of the structure shall be verified as set forth in Section 8 of this Article.
 4. Restoration of nonconforming structures, except for single family detached dwellings, shall require site plan approval as set forth in this Ordinance.
 5. Nonconforming uses other than signs and buildings (such as, but not limited to, underground storage tanks, private sewage disposal systems, and parking lots) may be restored or replaced when such structures become unsafe or unsound.
 - a. A relocation of the use on the same lot may be approved by the administrator provided the new location is less nonconforming than the original location, and further provided that the new location shall not cause a greater detrimental impact on conforming uses in the neighborhood.
 - b. Nonconforming signs may be repaired or replaced in accordance with the provisions of Section 5 of this Article.
- F. A nonconforming use may be expanded as follows:
1. Nonconforming structures occupied by, or used as a part of, a conforming use may be expanded, provided the expansion meets all current zoning regulations for the zoning district in which the structure is located.

2. A nonconforming use may be extended throughout any part of a structure originally arranged or designed for that activity, provided that current parking standards as set forth in this Ordinance are met.
 3. No structure used as a part of a nonconforming use shall be moved to any other lot unless the lot is zoned to permit the use, nor shall the structure be moved within the lot on which it exists, unless a relocation is specifically provided for in this Section.
 4. Whenever a percentage limitation is placed on expansion, that limitation shall be the total expansion allowed, whether in increments of any size that add up to the total, or all at once.
 5. No area of any lot not originally devoted to the nonconforming use may be utilized for an expansion, except when it would result in a conforming use.
 6. Any permitted expansion of a use and/or new or expanded accessory structures and uses shall meet all zoning ordinance requirements, including height, yard and setbacks, for the zoning district in which located.
 7. In no case shall a nonconforming single family dwelling be modified to accommodate additional dwelling units.
 8. Prior to the approval of expansion of a nonconforming use under this Section, the nonconforming use shall be verified as set forth in Section 8 of this Article.
- G. All changes to nonconforming uses as set forth herein are subject to verification of the nonconforming use and obtaining all appropriate permits and approvals including, site plan approval, building permit approval and zoning approval.

SECTION 5 - NONCONFORMING SIGNS

Nonconforming signs shall be governed by the regulations set forth elsewhere in this Article, except where such regulations conflict with the following provisions:

- A. Nonconforming signs shall not be expanded.
- B. Nonconforming signs may be changed to reduce any nonconformity as to the number of signs permitted on a lot, sign height, sign size and sign type.
- C. Signs that are nonconforming as to location may be relocated to be less nonconforming.
- D. The message or copy on a nonconforming sign may be changed, provided such change does not alter the sign type, unless the new sign type will result in a conforming sign in all respects.
- E. A sign permit, as required by this Ordinance, shall be required for any changes permitted by subsections B through D of this Section.

Section 6 - USE OF NONCONFORMING LOTS

- A. Any unimproved lot of record, located in any preservation district, that is nonconforming with respect to the lot area, lot width, or lot depth, or any combination thereof, as required in the zoning district in which the lot is located may be used for any permitted use in such zoning district, provided all other standards of the zoning district are met.
- B. Any unimproved lot of record existing on the effective date of this Article that could have been used for a single-family dwelling use under the zoning ordinance in effect immediately prior to the adoption of this Article may be used for a single-family dwelling use, provided all other standards

of the zoning district in which the lot is located are met, except that for nonconforming lots in the RP zoning district, the minimum lot area and lot width standards do not have to be met.

- C. In addition to the changes that may be allowed to nonconforming lots by Section 4 of this Article, nonconforming lots may change as follows:
1. A nonconforming lot may be increased in lot size, lot width, or both, to make the lot less nonconforming.
 2. The boundaries of a lot that is nonconforming as to lot size or lot width, or both, may be adjusted along with the boundaries of any contiguous conforming lot, provided such adjustment does not make the conforming lot nonconforming and does not make the nonconforming lot more nonconforming.
 3. A boundary adjustment between two (2) nonconforming lots, or among three (3) or more nonconforming lots, shall be permitted provided that no new lot is created, that lot width is not decreased to less than the required front setback line, as set forth in this Ordinance, and that, in the RP zoning district, lot size is not decreased to less than one acre.
 4. When a building a structure or a structure is expanded and said structure is located on more than one nonconforming lot, a boundary adjustment shall be required to consolidate the lots to make them less nonconforming.
 5. A subdivision plat shall be filed, approved and recorded in accordance with law, whenever any nonconforming lot is modified as set forth in this Section.

SECTION 7 - SPECIAL PROVISIONS REGARDING NONCONFORMING USES AND STRUCTURES IN FLOOD HAZARD OVERLAY DISTRICT

A structure, or the use of a structure or premises, which was lawful prior to August, 1989, but which is not in conformity with the provisions of this Section, may be continued subject to the following conditions:

- A. No structural alteration, addition or repair, singularly or cumulatively, to any nonconforming structure shall exceed fifty (50) percent of its appraised value as shown in the assessment records of Caroline County at the time of its becoming a nonconforming use, unless the structure is permanently changed to a conforming use; provided, however, that if any such alteration, addition or repair exceeds twenty (20) percent of the aforementioned value such alterations shall be in compliance with this Ordinance.
- B. Existing structures located in a floodway area shall not be expanded or enlarged below the level of the one hundred (100) year flood elevation. A certification of elevation prepared by an engineer or surveyor, licensed by the Commonwealth of Virginia shall be required to be submitted as part of the permit application.
- C. If such use is discontinued for twenty-four (24) consecutive months, any subsequent use of the subject property shall conform to Section 2 of this Article notwithstanding the intention of the landowner to continue such use.
- D. If any nonconforming use or structure is damaged or destroyed by any cause whatsoever, to an extent of fifty (50) percent or more of its fair market value, it shall be reconstructed only in conformity with the requirement of this Ordinance and all rights as a nonconforming use are terminated.
- E. Notwithstanding any of the above regulations, structures designated on the National Register or the Virginia Registry of Historic Structures shall be exempt from the provisions of this Section.

Section 8 - VERIFICATION OF NONCONFORMING USES

Prior to approval of any change in a nonconforming use permitted by Section 5 of this Article, the zoning administrator shall verify the lawful status of the use. The zoning administrator may also verify the lawful status of a nonconforming use not proposed to change, upon the request.

- A. In verifying the status of a nonconforming use, the zoning administrator shall determine the following:
 - 1. Whether the use is in fact a lawful nonconforming use as defined by this Ordinance, and if so, then,
 - 2. The location and gross floor area (in square feet) of all buildings associated with the nonconforming use; and
 - 3. The location, use and size of all structures other than buildings associated with the nonconforming use; and
 - 4. The area of land (in square feet) devoted to all aspects of the nonconforming use (including buildings, parking, outside storage, travel ways, open spaces, etc.); and
 - 5. A description of the principal use(s) and all accessory uses that make up the lawful nonconforming use as a whole.
- B. If the determination verifies the use, or any portion, as a lawful nonconforming use, the zoning administrator shall classify the overall nonconforming use based on the zoning district in which the use would be a permitted use. If the use would be permitted in more than one zoning district, the assigned classification shall be based on the zoning district that is the least intense of all districts where the use would be permitted. The assignment of such a zoning classification shall not operate to change the zoning of the property on which the nonconforming use is located, but shall be used only in determining the applicable criteria for change of the nonconforming use under Section 4 of this Article.
- C. The decision of the zoning administrator under subsections A and B shall be final after thirty (30) days unless an appeal is filed to the Board of Zoning Appeals in accordance with this Ordinance.
- D. The decision of the zoning administrator shall be based on information provided by the owner of the property on which the nonconforming use is located, on information provided by other persons with knowledge of the property, and on any other information available to the zoning administrator as public record. Information may include, but shall not be limited to, permits, licenses, tax records, receipts, business records, photographs, plats, plans, bills, utility information, assessment information, and sworn affidavits from individuals with personal knowledge of the use and/or the property on which the use is located.
- E. The zoning administrator shall keep a record of all verified nonconforming uses. Not less than every two (2) years after the original date of verification, the owner or operator of a verified nonconforming use shall file a report with the zoning administrator, on forms available from the Department of Planning & Community Development, showing that the nonconforming use has not ceased for a two (2) year period, or been abandoned, and that the use is being operated in accordance with the decision rendered as a part of the nonconforming use verification process, and any subsequent changes approved.

MEMORANDUM

DATE: February 23, 2011
TO: Policy Committee
FROM: Ellen Cook and Sarah Propst
SUBJECT: Subdivision Ordinance

I. Introduction to Memo

The following memo discusses possible amendments to the County's subdivision ordinance. The primary item discussed is the Alternative Onsite Sewage Systems issue, as was specified in the ordinance update methodology document. The memo also discusses several issues identified by staff including family subdivision provisions and a number of other possible amendments generally linked to reviewing agency (such as JCSA or VDOT) documents and standards.

II. Discussion Items

- A. As noted in the methodology, the primary item that staff identified as needing to be addressed in the subdivision ordinance is the new Alternative Onsite Sewage Systems (AOSS) regulations.
1. Description of issue/problem
 - State code regulations regarding AOSS have changed in the past few years, necessitating an examination of whether the existing subdivision ordinance provisions need to be amended accordingly.
 2. History
 - The existing subdivision ordinance language already allows use of alternative onsite sewage systems (note that as defined in state code, AOSS are not direct discharge systems). Alternative systems were first permitted in the subdivision ordinance with an exception starting in 1999. In 2004, the ordinance was amended to allow alternative systems generally, with the requirement that lots with these systems be noted on the plat as potentially entailing additional expense.
 - The Board adopted an amendment to Section 19-29 of article II to require a note on subdivision plats with septic systems. The note states that septic systems must be pumped out at least every five years. This note addresses a compliance issue identified by the Virginia DCR's Chesapeake Bay Local Assistance.
 3. Comprehensive Plan GSAs, public input, and PC and BOS direction
 - The Comprehensive Plan recognizes the need to maintain current regulations. ENV 1.10 states "Protect water resources from on-site waste disposal system failure by: ENV 1.10.1 Requiring Health Department approval for all subdivisions making use of on-site waste disposal systems; and ENV 1.10.5 Monitoring non-traditional on-site sewage disposal trends."
 4. Solutions and policy options
 - Staff spoke extensively with Health Department personnel and reviewed the existing subdivision ordinance language pertaining to sewage system. The changes to on-site sewage regulations allow the Health Department to permit alternative on-site waste

disposal system designs that have been stamped by a Professional Engineer. This could potentially impact the need to show primary and reserve drainfields on subdivided parcels, however Chapter 23 of our ordinance, the Chesapeake Bay Prosevation Ordinance requires that all subdivision plats which will not be served by public sewer must include a primary and reserve drainfield. While the AOSS regulation changes will not significantly affect the subdivision ordinance Health Department personnel did suggest amended language to better match terminology used in state code and Health Department regulations. For example, the use of the term “onsite sewage disposal system” rather than “septic tank system”. To better inform applicants about the approval process, Health Department personnel also recommended adding language to the County’s ordinance requiring certain topographic and other information be shown on the subdivision plat. Finally, to better inform applicants and future homeowners, they recommended adding a notation to the subdivision plat stating that alternative systems may entail additional operations and maintenance implications, in addition to additional cost.

5. Staff recommendation

Staff recommends making changes to the following sections: definitions, final plan – submittal requirements, and individual sewer. Overall, staff would note that the effect of the state code changes on James City County’s ordinance are fairly minimal. Some of the state code provisions, such as the requirement that owners of AOSS have a formalized relationship with a licensed AOSS operator, have more implications from a process standpoint for the Department of Health, but generally do not affect the actual subdivision ordinance language.

B. Based on discussion by the Board of Supervisors during past family subdivision special use permit cases, staff re-examined the family subdivision provisions in the subdivision ordinance.

1. Description of Issue/History

In the subdivision ordinance, a provision is included that allows subdivision of lots for members of an owner’s immediate family member (defined in the ordinance as any person who is a natural or legally defined offspring, 18 years of age or older or an emancipated minor, or parent of the owner) who must hold title to the lot for a minimum of three years after subdivision. The provision allows for two relaxations of the ordinance that are not otherwise permitted. First, in combination with language in the A-1 section of the zoning ordinance, a family subdivision allows for a minimum 1 acre lot size instead of the typical 3 acre minimum. This lot size reduction does require approval of a special use permit by the Board of Supervisors. Second, for all districts, pursuing a family subdivision allows for creation of a lot without the typically required road frontage. Instead, a family subdivision lot can gain access through a private drive. Over the years, concerns have sometimes been expressed that certain proposals verge on circumvention of the subdivision ordinance or may not be completely in accord with the intentions behind the family subdivision provision. Based on analysis of cases between 2003 and March of 2009, family subdivision lots accounted for about 15% of new minor subdivision lots created in the County’s designated Rural Lands.

2. Comprehensive Plan GSAs, public input, and PC and BOS direction

This issue was identified during the Comprehensive Plan update process, and was stated in LU 6.2.4 as follows: “Revise the Zoning Ordinance and Subdivision Ordinance to place appropriate restrictions, such as a minimum number of years of property ownership, on family subdivisions. Such restrictions would be intended to further the strategy of

preserving agricultural and forestall uses in the Rural Lands and are already enabled by the Code of Virginia.”

3. Solutions and policy options

Based on the family subdivision provision in state code that applies to James City County, it is permissible to place restrictions on the use of the family subdivisions.

Examples of possible options could include:

- Requiring a minimum number of years of ownership of a parcel prior to pursuing a family subdivision. Over the years, this has been one of the primary possibilities suggested by members of the Board of Supervisors. In 2006 a family subdivision proposal was denied by the Board of Supervisors because the applicant had owned the property less than 6 months prior to applying for the family subdivision. Staff has been more cognizant of this concern by the Board since that case and has asked applicants to provide ownership information for inclusion in the staff report. This would seem to fit well with the intent of families passing down significant working lands through multiple generations while allowing children to establish a separate residence on the property. In research of several other localities in Virginia, there were two examples with this type of standard (New Kent and Chesterfield).
- Extending the amount of time that the family member must hold title to the property after subdivision. As noted above, this is currently set at 3 years. Extending the time period would help ensure that the intent of passing land down within a family (rather than subdividing the land in order to subsequently sell the parcel), but might prove to be a hardship should unforeseen events occur within a family.
- Specifying a “parent parcel” minimum size after subdivision. This could be another option that would seem to fit with the main intent of passing down working lands of significant size, rather than using the provision to simply allow subdivision where parcel size or road frontage would otherwise not allow it.
- Limiting use of family subdivisions to certain zoning districts, such as A-1 General Agricultural and/or R-8, Rural Residential. This would provide a closer tie to working agricultural or forestall land, although there is a modest amount of agricultural and forestall land inside the Primary Service Area with other zoning.
- Changes to the family definition, either to broaden or restrict. Should there be support for including more restrictions such as length of ownership, a concurrent lifting of restrictions could be contemplated as compensation. One example of this could be to include siblings in the list of family members qualifying for the family subdivision provision.

4. Staff recommendation

Of the options listed above, staff recommends pursuing the minimum ownership length option, such as five years, and limiting the use of family subdivisions to A-1 and R-8 zoning districts. These two options seem to provide good linkages between use of this provision and the intent of having the provision in the ordinance. Should there be support for other options, staff could include one or more of them.

C. Other Possible Amendments Listed in the Attached Table

A large portion of the subdivision ordinance is strongly linked to other reviewing agencies, either

through the submittal requirements section, which lists the information that needs to be shown on plan sets, or through the sections that describe the requirements for design and minimum improvements. Staff sought feedback from agencies to determine whether current ordinance provisions clearly convey information related to their review area and whether the information is up to date. Staff received a number of comments, some of which were very specific, and some of which will need to be coordinated with the agency further during the drafting process, should their pursuit be supported. In addition, staff reviewed the ordinance with an eye toward clarifying the language in those sections which have frequently elicited questions from citizens and homeowners. Where it seemed reasonable, ideas for providing greater language clarity are also listed in the table. Due to the number and relatively limited policy implications of these items, staff has listed them in a table format. Staff would be happy to answer questions or provide more information on any of these items, if desired.

III. **Conclusion**

Staff is seeking Policy Committee input on items A, B and C as discussed above.

Attachment

1. Possible Amendments Table

Section	Proposed Revision
Article I: General Provisions	
19-1 Short Title	N/A
19-2 Definitions	<ul style="list-style-type: none"> - In the definition of flag lot, include information about how the front setback is determined, in coordination with changes to Section 19-39. - Include definitions of Alternative Onsite Sewage System and Conventional Onsite Sewage System as defined in State Code. - Ensure that terms used in the zoning and subdivision ordinance are coordinated. - Ensure that road-related terms are coordinated with VDOT definitions - Add definitions of construction (preliminary) plan and final plan.
19-3 Compliance with Chapter Mandatory	N/A
19-4 Penalties	N/A
19-5 Administration and Enforcement of Chapter	N/A
19-6 Effect of Private Contracts	N/A
19-7 Changes, Erasures and Revisions	<ul style="list-style-type: none"> - Clarify the language to say that changes and revisions to plats need to be formally re-approved.
19-8 Subdivision may appeal from disapproval of the plat	N/A
19-9 Plan and plat preparation – by whom prepared	N/A
19-10 How chapter may be amended	N/A
19-11 Resubdivision same as subdivision	<ul style="list-style-type: none"> - Change title to “Relocation or Vacation of Boundary Lines.”
19-12 Vacation of recorded plat	<ul style="list-style-type: none"> - To provide information to applicants, include reference to the VDOT road vacation process.
19-13 Construction and severability of provisions	N/A
19-14 Private streets dedication	<ul style="list-style-type: none"> - Revise this section to coordinate with the standard VDOT private streets note.
19-15 Fees	<ul style="list-style-type: none"> - Amend this Section to just reference the fee schedule, in coordination with the Zoning Ordinance.
19-16 Saving provision	N/A
19-17 Special provisions for family subdivisions (Discussed further in Memo)	<ul style="list-style-type: none"> - Amend to require five years of ownership, and limiting application to R-8 and A-1 districts - Other possible changes could include: broadening/restriction of the family definition, initial parcel size
19-18 Exceptions	<ul style="list-style-type: none"> - Amend this Section to add language stating that the applicant shall note any exceptions

	requested with the initial plan submittal
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Article II: Procedures and Documents to be Filed	
19-19 Pre-App conference and conceptual plan submission	<ul style="list-style-type: none"> - Remove the reference to DRC review of conceptual plans. Since this section was put in the ordinance a number of other processes have been put in place, including the enhanced conceptual plan process for DRC review, the Development Roundtables with staff, and the use of DRC Consideration items.
19-20 Master Plan	<ul style="list-style-type: none"> - Clarify that this language applies to subdivisions other than those with a legislatively-approved master plans.
19-21 Classification of Subdivisions	<ul style="list-style-type: none"> - State the minor subdivision lot number cap (nine lots) for clarity. Include a graphic to help illustrate the text.
19-22 Procedure for review of minor subdivision, townhouse or condominium subdivisions – review procedure	N/A
19-23 Procedure for preliminary plan review for major subdivisions	N/A
19-24 Procedure for preliminary plan review for major subdivisions of fewer than fifty lots	N/A
19-25 Effect of approval of preliminary plan	N/A
19-26 Term of validity for the preliminary plan	N/A
19-27 Preliminary plan - submittal requirements	<ul style="list-style-type: none"> - Adjust the plan scale cited to reflect current engineering firm practice, and reflect a reasonable scale for detailed review. - JCSA: Add submittal requirement item (capacity study) to reflect current practice, change reference from “service authority” to “James City Service Authority”, update regulatory document name to reflect current title. - Env: With regard to the drainage plan, remove outdated language pertaining to topographic plan submittal requirements. - Env: Add an item regarding submission of a stormwater management plan to better coordinate this section with environmental regulations and give a more complete picture/easier overall reference to applicants. - Stormwater: Revise item (h) regarding proposed grades for streets and drainage facilities to help ensure that the drainage systems are installed correctly, and to require construction

	<p>details on all parts of the stormwater system, including pipe bedding and backfill (to assist in future HOA system repairs).</p> <ul style="list-style-type: none"> - Stormwater: Add new item (k) to state “when any part of the land proposed for subdivision lies in a mapped dam break inundation zone, such fact shall be set forth on the plat of the proposed subdivision.” This is in accordance with state dam break inundation zone legislation (House Bill 837). - Add an item regarding submittal of a Phase I Environmental Site Assessment (as permitted by state code) if applicable (i.e. development of a brown or greyfield site, or where initial assessment indicates dumping or other contaminating activities have occurred on the property). - VDOT: require inclusion of the street connectivity index calculation, and the Chapter 527 certification (stating whether or not a Traffic Impact Assessment was required) on the cover sheet so that compliance with VDOT regulations can be verified. - In general, coordinate this section with the enhanced conceptual plan submittal requirements.
19-28 Preliminary plan – townhouse and condominium subdivisions	<ul style="list-style-type: none"> - In general, coordinate this section with Section 19-27, the enhanced conceptual plan submittal requirements, and site plan submittal requirements.
19-29 Final plan – submittal requirements	<ul style="list-style-type: none"> - Revisions to the onsite sewage treatment note as suggested by the Department of Health. - Coordinate with Sections 19-34 thru 36 to require that the surveyor to certify that the monuments and survey markers shown on the plat will be correctly located and installed (as is done in York County). - Add notes regarding monuments and underground utilities. - Revise scale reference to reflect current practice.
19-30 Procedure for approval of final plans	N/A
19-31 Term of validity for the final plan	N/A

Article III: Requirements for Design and Minimum Improvements	
19-32 Land Must Be Suitable	<ul style="list-style-type: none"> - Update reference to the transportation department (to “Virginia Department of Transportation”) here and throughout the document. - In terms of the language on the accessible building site, coordinate this section with 19-39 and 19-40.
19-33 Location of Utilities	<ul style="list-style-type: none"> - JCSA: update “service authority” reference (to James City Service Authority) here and throughout the document. - Expand list of example utilities to include newer communication technologies

	<p>(voice/data/video) in addition to the currently stated “telephone”.</p> <ul style="list-style-type: none"> - Coordinate language with any changes to Appendix A (which is referenced in this section).
19-34 through 19-36 Locations and specifications for monuments, Lot corner monuments, Monuments – general requirements	<ul style="list-style-type: none"> - Allow for use of control monuments in the City of Williamsburg, New Kent County and Newport News (in addition to York County and Newport News Waterworks, which are currently cited). - Coordinate with a revision to Section 19-29 requiring the surveyor to certify that the monuments and survey markets shown on the plat will be correctly located and installed.
19-37 Easements	<ul style="list-style-type: none"> - Add language referencing the JCSA and Environmental Division easement standards
19-38 Lot Size	N/A
19-39 Lot arrangement, design and shape	<ul style="list-style-type: none"> - Add text and graphic to explain lot design standards (i.e. front yard, side and rear setbacks, minimum lot width, etc.) - With regard to the requirement for suitable access to the building site from an approved street, add language to coordinate this section with the shared driveway section, such as developing different standards for the ability to gain access through the lot’s own “flagpole”.
19-40 Lot Location	<ul style="list-style-type: none"> - With regard to the requirement that each lot shall abut and have access to a proposed or existing publicly dedicated street, add language to coordinate this section with the shared driveway section, such as developing different standards for the ability to gain access through the lot’s own “flagpole”.
19-41 Side Lot Lines	N/A
19-42 Lot remnants	N/A
19-43 Double frontage lots	N/A
19-44 Separate ownership of lots to be subdivided	N/A
19-45 Lot frontage	N/A
19-46 and 19-47 Block length, Block width	<ul style="list-style-type: none"> - VDOT: Revise property line stub street right-of-way width requirement to reference VDOT standards (rather than 50’ width as currently written).
19-48 Street alignment and layout	<ul style="list-style-type: none"> - VDOT: revise to reference VDOT standard for street intersection jogs (200’ rather than 150’ as currently written).
19-49 Street construction standards	N/A (Coordinate with Development Standards, as necessary.)
19-50 Street drainage	<ul style="list-style-type: none"> - Env: Update drainage specifications to reflect current Environmental and VDOT regulations. - Stormwater: Separate out the last sentence of subsection (c) so that the waiver/modification process can apply to all requirements of the section. This will allow more flexibility to incorporate LID and Better Site Design principles and practices when deemed appropriate. - VDOT: investigate changes to the slope percentage cited to better match the VDOT Drainage

	Manual.
19-51 Sidewalks	- Coordinate with the sidewalk discussion for Development Standards, new VDOT Secondary Street Acceptance Requirements
19-52 Cul-de-sac streets	- In response to applicant questions over the years, include language addressing how the maximum length of the cul-de-sac is measured.
19-53 Private streets	- Env: Include statement that private streets shall also meet County drainage standards. - Coordinate this section with Development Standards, as necessary.
19-54 Street and subdivision names	N/A
19-55 Street signs	- General Services/VDOT: State that the sign face shall meet all design requirements of the Virginia Department of Transportation to reflect current practice.
19-56 Public water	N/A
19-57 Water facilities	- JCSA: replace the term “central water system” with term “independent water system”.
19-58 Individual wells	N/A
19-59 Public sewer	N/A
19-60 Individual sewer (Discussed further in Memo)	- Include language suggested by the Virginia Department of Health, as discussed in the memo. - To more fully inform applicants, add reference to onsite sewage disposal regulations found in Chapter 23 Chesapeake Bay Preservation Ordinance.
19-61 Regulations governing utility service	N/A
19-62 Inspection of public water, sewer and stormwater system	- JCSA: eliminate reference to requiring the JCSA certificate to construct prior to final approval of the subdivision plat. - JCSA: change reference from “service authority regulations” to “JCSA Regulations Governing Utility Service” - Stormwater: Add more details in subsection (b) about the process for stormwater facilities (i.e. the need for a certificate to construct). Also, revise the language to reference the County rather than the stormwater division.
19-63 Fire protection	N/A
19-64 Streetlights	- Coordinate this section with the Outdoor Lighting discussion for Development Standards, and with the County’s Streetlight Policy.
19-65 Off-site sewer, water, and drainage costs	N/A
19-66 Off-site road improvements	N/A
19-67 Dedication and reservation of land for public purposes	N/A
19-68 Establishment of homeowners	N/A

association	
19-69 Entrance feature review	N/A
19-70 Stormwater management feature review	N/A
19-71 Shared driveway for minor subdivisions	<ul style="list-style-type: none"> - Coordinate this section with the sections on lot design – consider different standards for access through the “flagpole” of the lot depending on whether a shared driveway is required or not. - Clarify whether all lots in a minor subdivision are exempt from the shared driveway requirement if one of them is over 5 acres, or just the 5 acre lot. - Stormwater: To address issues that have arisen over the years, provide more detail about the requirement that the driveway be “three inches deep,” such as “a paved surface at least ten feet wide consisting of 2 inches of pavement over 4 to 6 inches of stone aggregate.” Also, state that a detail showing the driveway specifications be included on the subdivision plat. - Correct the reference to 19-32(c). - Env: To clarify the process for applicants, add language noting that an erosion and sediment control plan and land disturbing permit may be required for the shared driveway, as determined by the Environmental Director. - VDOT: revise the driveway width language to avoid conflicting with VDOT standards for entrances onto state maintained roadways.

Article III Performance Assurances	
19-72 Installation of improvements and bonding	<ul style="list-style-type: none"> - Env: Add language specifying the bonding process for condominium development, where lots are not being individually subdivided (i.e. in instances where a final plat may not be submitted for approval). Coordinate revisions with Section 24-8 (Certificate of Occupancy) and Section 24-17 (Enforcement and guarantees as to conditions) in the Zoning Ordinance. These sections discuss guarantee of items shown on a site plan, and guarantee of proffered or conditioned items, respectively. This should help clarify the process for applicants. - Env: Update language regarding final release of surety to clarify that “acceptance” of the facility may mean review and approval of as-builts and construction certifications rather than taking over operation and maintenance (i.e. to acknowledge that the JCSA process for water and sewer acceptance is different than the process for stormwater systems and stormwater management facilities).

Appendix A

Typical Utility Detail – Ditch Section

- Revise to make dimensions better match current VDOT standards, and to consider referencing Hampton Roads Planning District Commission standards.

MEMORANDUM

DATE: February 24, 2011
TO: Policy Committee
FROM: Jason Purse, Senior Planner
SUBJECT: Multiple Use districts ordinance changes

I. Introduction to Memo

There are three multiple use districts in James City County: MU, Mixed Use; R-4, Residential Planned Community; and PUD, Planned Unit Development. Since the ordinance language allows both residential and commercial/industrial development there are a wide variety of possible options for developers to propose. Throughout the Comprehensive Plan update process, as well as through the public forums on the Zoning Ordinance update process, concerns have been raised over the predictability of the MU district. Some of these concerns are addressed during the legislative review of cases (by way of a binding master plan); however, there may also be ways to enhance the ordinance to achieve a more balanced mix of uses while still providing flexibility to the overall project.

The purpose of the multiple use districts is to promote efficient use of land, allow various densities and land uses, while protecting surrounding property and protecting the natural features and scenic beauty of the land. Furthermore, these districts are focused on promoting multiuse master planned communities in accordance with the uses and intensities described for the specific areas in the Comprehensive Plan.

Staff has also included a number of the same suggestions as proposed for the Economic Opportunity district. Furthermore, the sustainability audit provided a number of suggestions for making the multiple use districts more sustainable in the future. Staff requests the Policy Committee's guidance on which measures may be the most appropriate in providing the predictability desired in the multiple use districts.

II. Discussion Items

A. **Balance of Land Uses**

1. Description of issue/problem

- *While residential development can be an important part of a development in terms of providing households to patronize the commercial uses and workers to be employed there, it is important to ensure that a mixed use rezoning provides an adequate mixing of uses. In the past, some developments have focused more on the residential side of the development, in order to benefit from the relaxed dimensional standards of the ordinance. It is important to note that not all Mixed Use zones are the same. There are very detailed descriptions of the Mixed Use areas in the Comprehensive Plan. All the descriptions provide both primary and secondary use suggestions, so any rezoning should follow closely to the language provided. Not all Mixed Use areas are appropriate*

for a certain blend of uses; in fact, some areas may be more predominantly residential, and some may be more industrial (with very limited residential). There is no “magic” number for a balance of uses that would fit all of the comprehensive plan descriptions for the Mixed Use areas in the County.

2. History

- *The Mixed Use zoning district was created and will be needed in the future to allow a mix of both commercial/industrial and residential uses. There have been concerns that the Mixed Use zoning district does not provide enough certainty with respect to actually achieving a mix of uses in a development. Mixed Use is viewed by many as a means to achieve maximum density by promising positive cash flow through commercial development. That often does not occur in the manner it was initially described or proposed. Tighter residential limits should be addressed in proffers through phasing.*

3. Comprehensive Plan GSAs, public input, and PC and BOS direction

- *LU-4.6-Encourage developments which provide mixed use development, as further defined in the Mixed Use land use designation and development standards, within the PSA. Support design flexibility to promote mixing of various types of residential and non-residential uses and structures.*
- *LU 1.5-Facilitate continued diversification of the local economy and maintain an adequate balance between residential and non-residential development.*
- *The Chamber and Tourism alliance and the EDA provided comments on mixed use developments, particularly in reference to economic development opportunities.*
- *Mark Rinaldi and Rich Costello spoke about mixed use and redevelopment opportunities.*
- *JAC and Deborah Kratter spoke about mixed use developments, the Comprehensive Plan and citizen’s expectations for multi-use projects.*

4. Solutions and policy options

- *A balance of land uses section could include language that would limit not more than 70% of the development area to one-single use. For instance, in Newberry Florida, the ordinance includes the following language:*

To achieve the intent of a mixed use development, no single use shall exceed 70 percent of the permitted uses within a mixed use zoning district.

North Las Vegas has a similar description (albeit for no more than 75% of the site dedicated to one use), but also includes some other possible ways to encourage a true mix of uses, such as the following:

Mix of Uses.

- a. All mixed use development shall include a minimum of two different land use types, which may include commercial, residential, office, and/or employment uses. Ideally, no one land use type should occupy more than seventy-five (75) percent of a site, but the appropriate mix for each site shall be considered by the city on a case-by-case basis, with primary consideration given to variables such as location, site design, and compatibility with adjacent development.**
- b. Mixed use development may include vertical mixed use (i.e., any combination of compatible uses in a single structure) or horizontal mixed use (i.e., any combination of compatible uses arranged side-by-side on a single site).**

- c. To create and maintain active and interesting pedestrian areas, commercial buildings located within horizontal mixed use development shall include a minimum of two individual retail uses per block length. Each retail use shall have a separate entrance. For the purpose of this section, "block length" means the pedestrian area between two streets and/or drive aisles.
 - d. Mixed use buildings with residential uses planned for the second story and higher shall have retail, commercial or office uses on the ground floor. Lobby areas serving upper story residential uses may also be located on the ground floor, provided that such lobby areas occupy no more than fifty (50) percent of the available floor space. All non-residential ground floor uses shall be compatible with residential uses.
5. Staff Recommendations
Staff recommends including specific language in the ordinance to promote a true mixing of uses. Staff believes that having specific information in the ordinance language counting mixed use buildings (either horizontal or vertical) would help clarify, but also believes that a less specific section could also still provide the flexibility for developers to tailor projects to the needs of the community. Staff believes the threshold (in this instance 70 or 75%) for a single-use is the most important piece to include in an ordinance.

B. Construction Phasing

- 1. Description of issue/problem
 - *Historically, mixed use developments in the County have had their residential and commercial/industrial components develop at different rates. Projects, such as the Lightfoot Mixed Use plan, have seen large percentages of the residential development completed, while sections of the commercial development have yet to be realized. This alteration from the approved development plan can have adverse effects on the proposed fiscal impact analysis that was presented to the Board of Supervisors during the legislative review process. While there is currently no fixed policy or ordinance requirement some projects have included proffers (i.e. Stonehouse) that deal with this topic. In an effort to ensure that developments are providing the benefits to the County that were presented during legislative review, staff has investigated alternative ways to ensure an adequate construction phasing plan. A similar discussion was included in the Economic Opportunity framework.*
- 2. History
 - *The York County Zoning Ordinance has language in its Mixed Use zoning district that addresses construction phasing, and that model will be discussed in greater detail below.*
- 3. Solutions and policy options
 - *Below is an example construction phasing section taken from the Mixed Use section of the York County, VA zoning ordinance.*

Construction within the Major PDMU development shall be sequenced in accordance with a project build-out schedule conceived by the project developer, submitted for review as a part of the initial application, and approved by the board of supervisors. The purpose of such development schedule shall be to provide assurance to the board of supervisors that the project will, in fact, include both the proposed non-residential and residential elements at certain project milestones and/or at build-out. As a

guideline, project proposals that adhere to the following sequencing requirements will be considered consistent with the objectives of the board of supervisors:

- Up to 20% of the residential units may be constructed prior to commencing any commercial construction; and
- Construction of the next 40% of the residential units shall be sequenced in conjunction with construction of at least 40% of the commercial space; and
- Prior to issuance of Building Permits for construction of the final 20% of the residential units at least 80% of the commercial space shall have been completed to the stage that it is ready for individual tenant fit-out and customization.

4. Staff recommendation

Staff recommends considering the inclusion of a construction phasing section with the Mixed Use ordinance, similar to that proposed for the EO district. Furthermore, the model York County phasing requirements could be a starting point for actual ordinance language.

C. **Complementary Design**

1. Description of issue/problem

- *Many successful industrial parks, mixed use communities, and retail centers have a unified design. This can include pedestrian connectivity, focal open spaces, and similarly designed architectural features. A development that incorporates these design features will help to better integrate with the surrounding community, as well as create a sense of place.*

2. History

- *Many of the existing Mixed Use areas (on the Comprehensive Plan Land Use Map) are located at important interchanges or Community Character Corridors in the County. Respecting these viewsheds and corridors will be important to any development (as referenced in the Comprehensive Plan).*

3. Comprehensive Plan GSAs, public input, and PC and BOS direction

- *Mixed Use Land Use Description-Development should be designed to encourage trips by alternative transportation modes and should be concentrated on portions of the site to avoid sensitive environmental features and respect viewsheds from historic and Community Character areas and corridors.*
- *LU 2.1-Plan for and encourage the provision of greenways, sidewalks, and bikeways to connect neighborhoods with retail and employment centers, parks, schools, and other public facilities to effectively connect buildings and activities within individual sites.*
- *CC 3.8-Design streets in commercial/retail centers and residential areas to better encourage street-level activity and a safe and attractive pedestrian environment by encouraging the use of tools such as traffic calming, pedestrian-scale amenities, gathering spaces, pedestrian plazas, street trees, pocket parks, and consolidated entrances with fewer curb cuts. Develop voluntary guidelines that can be used through the special use permit or rezoning process.*

4. Solutions and policy options

- *Complementary design can be incorporated into the ordinance to promote an integrated design with similar architecture, focal open spaces, and pedestrian connectivity as encouraged during the development of the Comprehensive Plan. Additional examples were present in the Loveland, Colorado zoning ordinance:*

Campus-Type Character: E-Employment Center Districts are intended to have a “campus-type” character with strong unifying design elements meeting the following standards:

1. Unified Building Design: Building design shall be coordinated with regard to color, materials, architectural form and detailing to achieve design harmony, continuity and horizontal and vertical relief and interest.

2. Unified Open Space: Projects shall include a unifying internal system of pedestrian-oriented paths, open spaces and walkways that function to organize and connect buildings, and provide connections to common origins and destinations (such as transit stops, restaurants, child care facilities and convenience shopping centers). The development plan shall utilize open space and natural features that serve as buffers and transitions to adjacent area(s). Development plans shall include at least 20 percent of the gross site area devoted to common open space features, including features such as common area landscaped buffers, parks or plaza spaces, entrance treatments, natural areas, or wetlands, but excluding any open space or landscaped areas within required building setbacks or parking lots. Areas dedicated to storm water drainage may also be counted toward meeting the open space requirement, provided they are designed to be recreation space or as an attractive site feature incorporating a naturalistic shape and/or landscaping.

3. Other Unifying Features: Major project entry points shall include well designed signage and entry features such as quality identity signage, sculpture, plazas, special landscape clusters, etc. The visibility of parking lots or structures shall be minimized by placement to the side or rear of buildings and/or with landscape screening. Shared vehicular and pedestrian access, shared parking, common open space and related amenities should be integrated into the project’s design. The overall design and layout shall be compatible with the existing and developing character of the neighboring area.

4. Viewshed Protection: Care shall be taken to minimize disruptions to adjacent neighborhood views of open spaces or natural features through the sensitive location and design of structures and associated improvements. Visual impacts can be reduced and better view protection provided through careful building placement and consideration of building heights, building bulk, and separations between buildings.

5. Unified Design Agreement: In the case of multiple parcel ownerships, an applicant shall make reasonable attempts to enter into cooperative agreements with adjacent property owners to create a comprehensive development plan that establishes an integrated pattern of streets, outdoor spaces, building styles and land uses consistent with the standards in this section.

An additional option would be to have a specific ordinance requirement for design guidelines. Many of the characteristics mentioned above could be required to be included, and legislative cases would be required to include the guidelines along with their master plan and rezoning application (similar to traffic studies and community impact statements).

5. Staff recommendation
 - *Staff recommends considering the inclusion of complementary design elements such as pedestrian connectivity, unified open space design, and coordinated building design with regard to color, materials, architectural form and detailing to achieve design harmony, continuity, and horizontal and vertical relief and interest.*

D. **R-4 Addition of land to an existing community**

1. Description of issue/problem
 - *During past rezoning cases, section 24-283 (and to a lesser extent 24-275) has been discussed with respect to the language “under the same ownership or control.”*

The whole section reads as follows:

“Additional land area may be added to an existing residential planned community if it is adjacent (except for public roads) and forms a logical addition to the existing residential planned community and if it is under the same ownership or control.”

County staff, including the County Attorney’s office and Zoning Administrator, has determined that “control” or “ownership” can reference control or ownership of a master plan/development plan of a community, or the land governed by the master plan. This means that the developer who owns the rights to a master plan can add to that master plan area, even if control of the original property has been passed off to individual owners through sale of lots.

2. Staff recommendation
 - *Staff does not recommend amending the language in this section. Staff believes allowing additional land to be added to a community through a legislative review process is still the correct process to follow and there are many instances where communities have expanded in the past.*

E. **Sustainability Audit** – The following list of recommendations was provided by the consultant in the sustainability audit. Due to the number of possible changes, staff has included a brief response after each item.

1. *Options should be provided for infill and redevelopment similar to the MU District, but that can be applied on smaller redevelopment sites as opposed to going through a long rezoning process to MU. A mixed use redevelopment option could be created for the business districts. This could allow for a mixture of uses and flexibility in dimensional requirements where the development is compact and walkable. **As discussed in the Form-Based Code memo, given the lack of by-right Mixed Use zoned property a Redevelopment district may be the best option for achieving this goal.***
2. *The PUD and MU districts should have provisions to set aside land for public facilities. This could be incentivized through density standards and allowing the developer to transfer the density from the public site to other areas of the PUD. **This process is typically handled during the rezoning/proffer process, as evidenced in the Colonial Heritage and Stonehouse developments. In some instances the County has determined that public facility sites are not appropriate or needed in certain locations and have needed the flexibility to receive different mitigation packages. If this is included as an ordinance requirement that flexibility is no***

longer an option. An additional option could be a density transfer incentive, where the developer would set aside an area for public facilities and the density that could be derived on those acres could be transferred elsewhere in the project. It should also be noted that if cash-in-lieu is used as a proffer, similar to Parks and Recreation proffers, the intended use must be specifically identified (i.e. CIP).

3. *The residential cluster development overlay district, PUD and MU districts should have a provision that the open space could be dedicated for public recreational land if there is a need at that location for a public park. This would not be a requirement, but could be an option that is incentivized through a density bonus in exchange for dedication of public park land and allows the developer to transfer the density from the publicly dedicated land to the remainder of the development. Currently the R-5 district provides a density bonus in exchange for public facilities. Providing park land or open space is important for all neighborhoods, and will continue to be a requirement in these districts. However, staff does not believe it is in the best interest of the County to have smaller-scale parks dedicated for public use. As it stands now, the individual Home Owners Associations are responsible for maintenance and upkeep of the facilities. If the parks are dedicated for public use, the burden may shift to the County for these services. Currently, the County uses proffers during legislative cases for acquiring larger pieces of property for parks and recreation if an acceptable parcels present themselves.*
4. *The PUD and MU districts should provide incentives for ground-floor retail and upper-level residential uses, such as allowing increased density for mixed use buildings. Staff could accommodate density bonuses in the ordinance by restructuring the base density in Mixed Use. There are a number of possible density bonuses to be discussed in this section. If each bonus was for a .25-.5 du/ac increase, the base density could be lowered commensurately, in order to offset any of the increases. Another option would be to include a list of all of the possible bonuses and provide a maximum density bonus if "X" number of the criteria are met. For instance, there could be a list of 7-10 possible items (i.e. mixed use buildings, LEED certified construction, affordable housing, etc.), and if the developer committed to three of the items they could receive a density bonus of 2 du/ac.*
5. *The MU district design standards should encourage general urban buildings that have a form that can be adapted to multiple uses. This could be done through design standards or a form-based code. Architectural review generally occurs legislatively and is specific to the project. Typically, mixed use buildings are designed to accommodate a variety of uses (i.e. Main Street in New Town). Furthermore, each development is different in terms of architectural style and design. A development in Toano is expected to look different than a development near New Town. There is not one example of architecture that could be applied County-wide. For James City County, Form-Based Codes would need to be tailored to a specific sub-area with distinct architectural character. The Toano design guidelines were only established after a long, intensive public meeting process in order to gain buy-in from the citizens on the true desired character desired for Toano. However, the design guidelines that are expected as a part of the rezoning process could be made to require this type of standard.*
6. *The MU district should require residential garages not project out in-front of the living portion of the dwelling, be located in the rear yard. The other residential districts should have limitations on front-loaded garages to limit the distance they can project in front of the dwelling and limit the percent of the front façade that is dominated by garage. Typically the ordinance*

- will specify that the garage cannot occupy more than 50% of the length of the front façade and that the garage cannot project more than five feet beyond the living portion of the home. **This has not typically been a problem in Mixed Use as it has been in the residential districts. This could become a policy if there is support for it.**
7. Form-based or pedestrian-oriented design standards could be added to the MU and other districts requiring buildings oriented to the street at a pedestrian scale, with requirements for storefronts and other pedestrian-oriented elements. **As previously stated with the Economic Opportunity discussion, staff is envisioning including more detailed pedestrian oriented requirements to the Mixed Use ordinance.**
 8. The PUD, MU and business districts should provide incentives such as increased height or density for energy efficient, LEED certified buildings and other sustainable building techniques. This could be included in the height increase criteria of secs. 24-496 and 24-525. **In conjunction with a possible change to the height limit modification criteria, a density bonus could be incorporated to achieve this goal, or it could be part of a list of possible bonuses as described in #4 above.**
 9. *The LB, B-1 and MU districts require 50 foot front yard setbacks (which can be reduced). There may be some area where the Comprehensive Plan recommends creating a more pedestrian-friendly street and the setback could be further reduced and/or build-to requirements adopted with minimal front-yard parking.* **Staff believes this has already been accomplished in our ordinance. The Mixed Use language currently allows a setback reduction based on the specific guidelines, including the character of the area (i.e. pedestrian friendly streetscapes). This reduced setback has been accomplished in a number of Mixed Use areas, including New Town and Colonial Heritage.**
 10. The MU district should require that parking be located to the side or rear of the site with the building at or near the sidewalk, with the allowance for other options or waivers for certain circumstances. **Staff does not believe this should be a requirement in the ordinance, but a possible incentive was presented during the review of parking requirements in the Development Standards section of the ordinance update.**
 11. The R-4, PUD, MU and residential cluster districts should be used to encourage compact development on small lots. **Staff believes this suggestion is already accomplished in our ordinance. These zoning districts do not have minimum lot sizes and the density in these districts encourages compact development.**
 12. The R-4 district, PUD and residential cluster overlay district should be used to encourage clustered development with compact lots. **Staff believes this is already accomplished in our ordinance, as these districts have no minimum lot size requirement.**
 13. The ordinance includes incentives and requirements to preserve historic and cultural resources. **This could be incorporated with a density bonus, or it could be part of a list of possible bonuses as described in #4 above. This has also been an expectation of legislatively reviewed cases in the past, but could be helpful for by-right or adaptive re-use.**

14. Higher densities of residential and intensity of employment may be appropriate for the MU and R5 districts in areas served by WATA transit and where in accordance with the Comprehensive Plan. **Higher densities are currently expected and promoted in the Mixed Use ordinance. WATA stops have generally been included if WATA is planning a route in the vicinity of the development. Staff believes this is already accomplished.**
15. Where a site is located adjacent to a transit stop, parking should be located away from transit stop, particularly surface parking. Front yard surface parking should be limited along sidewalks near a transit stop. **The routes run by WATA are not set prior to the layout of a development. Transit stops (bus transit is currently the only transit in JCC) are usually set by WATA after a development has been established.**
16. The MU and other business districts should include increased floor area ratio and density standards for uses that provide structured parking. **There are currently no floor area ratio standards in the Mixed Use ordinance, and while not prohibited, there are no requirements for parking structures either. Special financing, such as a CDA, is usually required to support structured parking. A density bonus could be provided for developments that incorporate structured parking, or it could be part of a list of possible bonuses as described in #4 above.**
17. The zoning regulations should be inclusive and provides diverse housing opportunities by encouraging a mixture of housing types in the R-4, R-5, PUD and MU districts. **Staff is supportive of this measure, but has not yet determined how to adequately incorporate it.**
18. The PUD and MU districts could require a variation in housing types and lot sizes to avoid a uniform type of housing. **See above #17**
19. The PUD and MU districts should provide for affordable housing density bonus, similar to the residential cluster development overlay. **This could be incorporated as a density bonus, or it could be part of a list of possible bonuses as described in #4 above. This topic was also addressed in the review of the residential districts. An affordable dwelling policy is another possibility.**
20. Regulations such as form-based codes or design standards could include design guidelines so that streets, buildings, and public spaces work together to create a sense of place. **Design guidelines are presented on a case-by-case basis and are not appropriate for County-wide development.**
21. Use the MU district to create nodes of pedestrian-oriented mixed use “places” as opposed to linear commercial along major roads. The MU district will allow for the mixture of uses, density and pedestrian-oriented character of a place. **Staff will be proposing a number of “pedestrian-oriented” amendments to help create a sense of place, similar to what was presented for the EO district.**
22. Pedestrian plazas or other urban open spaces should be required as part of any major development. **See above #21.**

23. The open space that is required in the PUD, MU and residential cluster development should be required to be visible, usable and integrated with the pedestrian system – not just remnant landscaped areas, as noted previously. **See above #21.**
24. The PUD, MU and business districts should be required to provide street furniture, including street trees, benches and ornamental lights. **See above #21.**
25. Building setbacks shape the public space along the streetscape. Build-to lines can be used to create desired pedestrian oriented streetscapes in certain areas such as the MU district. The MU district should also include minimum building heights to facilitate shaping the streetscape as a human-scale public space. This could be required through a form-based code. **Form-based codes require a public input process to determine the acceptable “form”, and given the variety of areas in our County designated Mixed Use this task is not likely to be feasible. Staff will also be promoting other pedestrian oriented measures similar to what was proposed for Economic Opportunity (i.e. unified pedestrian connectivity, focal open spaces, etc.). Build-to lines could be implemented if desired, or as part of design guideline expectations (see #9).**
26. The MU district should encourage parking to be located to the side or rear of the building. Large front yard parking lots should be discouraged in the LB and B1 districts. **This was previously discussed (#10), as a possible density bonus or incentive, or it could be part of a list of possible bonuses as described in #4 above.**
27. The MU district includes a number of uses that are not pedestrian-oriented and may not contribute to the intent of the district. The MU district is being reviewed with the understanding that different mixed use areas have different function. The following uses should be reconsidered:
 - a. Automobile repair and service **Possible deletion**
 - b. Contractor equipment storage yards **Possible deletion**
 - c. Lumber and building supply **Unlikely deletion**
 - d. Manufacturing **Unlikely deletion**
 - e. Warehousing **Unlikely deletion**
 - f. Fast food restaurants (drive thru) **Possible deletion**
 - g. Petroleum storage **Possible deletion**
 - h. Solid waste transfer **Possible deletion**
 - i. Truck stops **Possible deletion**
28. Form-based codes, design standards or other regulations can be used to limit the amount of parking that may occupy frontage in areas such as the MU district. **Parking standards/requirements are being evaluated in a different section.**
29. The zoning ordinance should be used to encourage noise-compatible land use near I-64 and other major highways. This can be done through non-residential zoning where consistent with Comp Plan such as the M-1 along I-64 and the A1 district which restricts residential density. Where residential is located along major highways requirements can be added for additional setbacks/buffer strips and the PUD district and cluster development option can be used to cluster homes away from major highways. **This is more so a zoning map issue than a zoning ordinance concern. There are also right-of-way buffers of 75'-150' for PUD (75' for I-64). No action is recommended.**

F. **Conclusion**

Staff has proposed a number of ideas that address a balance of uses, construction phasing, complementary design, as well as sustainability audit items. Staff requests the Policy Committee's guidance on which measures may be the most appropriate in providing the predictability desired in the Multiple-Use districts.

Attachments:

1. Public comments from the zoning ordinance public forums

**Comments Regarding Ordinance Review – Mixed Use
Zoning
September 27, 2010
Deborah Kratter**

As a preliminary matter, I would like to thank the commission for responding to my request that this additional session for comments be added. I am glad that I am not the only one speaking here today.

The J4C has previously suggested a complete re-evaluation of the need for Mixed Use Zoning. But if you do determine to retain this Division, at a minimum the sections should be revised to include provisions that will assure approval ONLY of developments that are designed to and are likely to meaningfully effectuate the intent expressed in 24-514:

.....to promote a broad spectrum of land uses in more intensive developments on lands designated mixed use by the Comprehensive Plan. *The mixed use district is designed to:*

(1) Promote a multiuse master-planned community which may include residential, commercial, industrial (with a predominant focus on light industrial), office and other nonresidential uses;

(2) Provide flexibility, unity and diversity in land planning and development resulting in convenient and harmonious groupings of uses, structures and common facilities; varied type, design and layout of residential, employment and social centers; and appropriate relationships of open spaces to intended uses and structures which include attractive and usable open space linked by pedestrian walkways and/or bicycle paths;

(3) Reduce commuter driver demands on highways and roads by concentrating employment, housing and

***recreation opportunities in locations served by, or convenient to, public transportation; and
(4) Permit densities and intensities of development in excess of those normally permitted in customary residential and commercial zoning districts.***

Currently, the designation is subject to abuse by those who wish to use land not otherwise zoned for primarily high density residential developments which are not a part of a true mixed use development. *A recently withdrawn proposal for multiple residential units tried to circumvent zoning requirements by throwing in a couple of low rise office buildings and a “wouldn’t it be nice someday” retirement facility – neither of which would have provided significant employment opportunities to those living in the homes – and thus none of the goals of the mixed use district would have been realized.*

Thus, in doing your rewrites add some specificity to the requirements to assure that each proposal actually fulfills the stated intent of the district. 24-514 (b) would be an ideal place to add concepts such as proper proportions of residential to other uses.

Among other issues to consider are these:

To the extent permitted by state law, put in provisions for expirations of any permitted zoning. What we need today may be inappropriate 10 years from now.

Sec. 24-515, relating to “Documents required for submission,” has ample room for improvement. Develop more rigorous requirements for the Community impact statement, by a combination of mandated assumptions to be

used in its preparation (for example, cumulative impact of already approved projects along traffic corridors, and within existing school districts) and requirements for clear disclosure of assumptions used to determine the conclusions to be offered under subsection (c), 1-4. These assumptions should be set forth in their own section, with academically testable bases for their use, rather than in obscure footnotes that require the commission and the staff to be armed with both magnifying glasses and crystal balls.

Either in the ordinance or procedural rules make it clear that potential employment for a use that has no sponsor, developer, financing or timeline – simply doesn't count. If the only reasonably likely (again in terms of sponsors, developers, financing etc.) near term use in a proposed mixed use district is residential, for example, it should not be approved for mixed use zoning.

Special care in rewriting should be taken to assure that the proposed mixed use zoning is used for viable, currently-planned projects and not merely as a way to increase the value of property that is likely to be sold to an unknown developer for unclear or unspecified purposes.

Under 24- 517 (c), add requirements to assure that the guarantees are of sufficient amount, quality and duration to accomplish their purpose. If any of the obligations for maintenance of project facilities are to be left to residents or owners or users of commercial structures, specify metrics to test whether the ability of those constituencies to pay is real.

Also, throughout your reviews, consider whether the fees for submittals are sufficient to meet the county's current budget needs. Large mixed use projects may be better able to absorb higher costs than small residential ones.

In Sec. 24-519, “Addition of land to an existing mixed use development” – consider increasing the approval level from the DRC to the full planning commission, and specifically require that the additions be consistent with the existing uses in the mixed use district as well as those uses outside the district. Addition of land to mixed use district should not be allowed where it will adversely affect nearby property owners –and this should be made clear.

Section 24-521 sets out a variety of permitted uses – many of which are not necessarily compatible with other permitted uses. Ordinances should be revised to require that the proposed uses within the mixed use development be specifically identified before a master plan is approved and more importantly, not subject to change for another permitted use without a special use permit.

In Section 24-523, to the extent permitted by law, use the total developable area rather than Gross Acreage to avoid structures or projects which are inconsistent with the county’s vision.

As always, in doing these revisions, keep in mind the goals set forth in the recent Comp Plan and those expressed by the people who pay taxes and vote here. Remember that those folks have property rights that are in every way, equal to the property rights of those who wish to sell or develop their property.



James City County Planning Commission Forum

August 24, 2010

There has been considerable discussion about the potential use of economic opportunity zones by planners and the business community and my remarks will draw upon these ideas.

The Chamber & Tourism Alliance believes that growth in the county's economic base must be accommodated in the plan. Without some growth in that base, we will have increasing tax burdens caused by growing imbalance with planned residential expansion. Our members recognize the importance of maintaining the uniqueness of our area. James City County's quality of life is our key competitive advantage to attract businesses, residents, and visitors. We need a balanced economic portfolio that preserves the uniqueness of our historic area and attracts and maintains complementary businesses. One important part of achieving balance will be clear guidance in the plan concerning large tracts of land that are appropriate for development and those that are not. Economic opportunity zones are one means of ensuring that the scope of growth is measured and the location is established in a proper area.

James City County's 2009 Comprehensive Plan Update included a new Economic Opportunity Zone designation to encourage developments that have a positive fiscal contribution, provide quality jobs, enhance community values, are environmentally friendly, and support local economic stability. Master planning is at the core of this designation. The Comprehensive Plan anticipates that no

development should occur unless it is incorporated into area/corridor master planning efforts, which should be shielded from jurisdictional boundaries.

The Comprehensive Plan specifically notes the regional planning and cooperation opportunity for the Lightfoot/Hill Pleasant Farm and Quarterpath areas, but it notes that collaboration opportunities in other areas must be considered, as well. Areas that have already been developed along borders among the city, counties, and William & Mary, can provide insight on how to collaborate on future inter-jurisdictional developments.

Both James City and York Counties recognize the Lightfoot/Hill Pleasant Farm section as an area for significant development, much of which could be enhanced by extending Mooretown Road. This area includes approximately 1,100 acres – 600 in York and 500 in James City. The York comprehensive plan includes extension of Mooretown Road into this area and anticipates mixed use development. Both counties desire that the area develop through a master plan to include commercial and possibly some residential areas. James City County's suggested uses of the area include industrial, light industrial and office uses; primary uses would follow the recommendations for the general Economic Opportunity. York County has designated the Lightfoot area for Economic Opportunity with a Mixed Use overlay designation.

In addition to the Lightfoot/Hill Pleasant Farm area, other areas that would benefit from inter-jurisdictional collaboration include the Eastern State property, Camp Peary intersection, and the Rt. 199/Rt. 60/I-64 intersections. Further research among James City, Williamsburg, York and William & Mary is necessary to completely identify large and small scale opportunities for collaboration.

The issue of collaboration involves staff other than just economic development. Planning issues will surely arise as the three jurisdictions have their own separate zoning ordinances. A thorough review of each locality's development procedures will be necessary to determine conflicting ordinance permissions and uses. While all three localities are subject to the same Virginia Building Code and Chesapeake Bay regulations, each jurisdiction has its own standards and interpretations for these and other policies. A regional development policy for site and building

plans review within collaboration areas could also be beneficial. Having only one review and enforcement agency would ease confusion for developers and land owners. Finally, involvement of public utility staff is necessary to coordinate the effects on our regional water and sewer systems. Planning, Environmental and Building Code staffs would have to adopt consistent standards for projects within collaborative areas. Ideally, the master plan would include consideration of types and sizes of units, inclusion of workforce housing, and apartments. The plan would consider the infrastructure impacts, particularly on school enrollments, and would consider how those impacts would be apportioned across jurisdictions.

Preliminary engineering work and a master plan for collaborative development would address the site and building plans approval issues. When developing a master plan, it will be important to consider the businesses and end-users for the area. Coordination with both VEDP and HREDA would be useful to develop target industries for the region, and incorporate features that attract those general industries into the sites.

We urge the Planning Department and Commission to craft ordinances that enable the planned growth of economic opportunity zones to succeed in collaboration with other jurisdictions.

M. RINALDI
8/24/10

6:50

Commercial and Mixed Use District

Thank you Mr. Chairman, members of the Planning Commission, good evening. I am Mark Rinaldi and I can be found most days of the week at 4029 Ironbound Road.

I am confident that most of you understand the important role economic development plays in our community's well-being. Indeed, it intersects with nearly every other aspect of community life. To be sure, there are citizens in this County who would be content to see no new or expanded business and industry within our borders. But I suspect these well-intentioned people have not fully considered the implications of such a future. For a glimpse of that future, one need only look at the current fiscal stress the County is experiencing. There are ways to manage growth and maintain a sustainable community. Perhaps some of the following observations will be helpful as you begin to envision useful changes to our zoning and other regulatory ordinances to that end.

Redeployment of vacant or underutilized facilities and redevelopment of distressed or obsolete properties should be important emphases in our overall community development strategy. It is my hope that as a community we can quickly begin to view distressed properties not as temporary blights upon the landscape, but as unique opportunities to reset these properties and benefit from gains in energy efficiency, aesthetic improvements and contemporary functional relationships. In order to meaningfully capitalize on the opportunities that such sites offer, however, our ordinances, policies and programs will need to offer flexibility, reward creativity and encourage the use of offsets to achieve and maximize area-wide benefit where constrained site specific solutions may not be possible or practical.

With specific reference to commercial uses, I first want to applaud the County's efforts to date in moving a variety of business uses from Special Use Permit to by-right. Some of you were involved in several important modifications that occurred prior to the Comp Plan process, but there is more work to be done, and it is my hope that this ordinance update process will complete the task. As I recall, the pre-Comp Plan changes were described by Staff as relatively minor, low hanging fruit if you will. I stand here before you this evening to encourage you to now do the hard work necessary to move forward with this important, increasingly important, initiative. Businesses now, more than ever, need certainty as they plan for major capital investments. They will work with communities that establish clear expectations and avoid communities where its let's make a deal. Establishing appropriate performance standards for by-right uses cannot be done in a vacuum. Genuine and sincere collaboration between the regulated and the regulators and with other vital community stakeholders is the only way to achieve the desired results of increased predictability, for both businesses and interested citizens. Working teams including all the various stakeholders is the best way to success.

While a member of the County's Economic Development Authority, I participated in a number of discussions among and between EDA Directors and OED Staff about various issues related to the County's existing Enterprise Zone and the benefits to be derived from the creation of one or more Technology Zones. It is my understanding that there may be additional acreage available to add to the existing Enterprise Zone, and some acreage could reasonably be removed from the zone, all in an effort to better match suitable land inventory in the revamped zone with desirable economic development uses.

With respect to technology zones, the EDA recognized over 18 months ago that certain classes of technology business activities can have

special economic significance to the county due to the nature of the technology developed or employed, their interrelationships with other Hampton Roads based federal, institutional and private organizations/ businesses and their potential for high growth in employment and capital investment. The EDA felt that an appropriate method of offering effective incentives to certain classes of technology businesses is to create one or more technology zones in the county. The establishment of technology zones in other communities has been found to hasten redevelopment, serve as a retention mechanism for existing businesses and incubator clients and provide significant hi-wage and benefits employment and tax generation. To take charge of our economic future, the County must move forward in this update process to geographically designate one or more technology zones, identify the industry classes and clusters we wish to encourage therein and determine the types and magnitude of incentives the zones will represent.

Finally, the creation of an Economic Opportunity district in the recent Comp Plan is the first step towards creating a sustainable economic future in JCC. Building up, not out, and with multiple modes of transportation access to and away from significant employment centers will help to insulate JCC from the increasingly grim future of the single-occupancy private vehicle. Establishing the EO district as a receiving zone for the transfer of development rights will provide the ying to the rural land preservation yang. Conversion of residential development rights from the sending zone into commercial and office development rights in the receiving zone can lessen the pressures rural landowners face when they need or desire to monetize their land assets for retirement, health expenses and other necessities of daily living. Other mixed use, higher intensity districts can also be designated as receiving zones. In time, this market based approach to growth management could even replace the antiquated and ineffective PSA tool that the County has struggled to explain, implement and revise for decades.

I would like to thank the Planning Commission for this opportunity to speak. My name is Rich Costello and I live at 10020 Sycamore Landing Road in the Stonehouse District of JCC. I am also President of AES Consulting Engineers, a firm that principally practices Land Development in Central and Eastern Virginia with its largest office located in JCC.

I will speak this evening to the Commercial and Mixed use Districts. Commercial properties pay for themselves, which means they pay more in taxes to the local government than services they receive, compared to almost all Residential development which costs local government more money than they take in, principally due to the education of school children. Due to this fact Commercial Development is usually desired by local government.

Commercial Development is not a static process, it is all about change with major innovations in how it Markets itself ^{occuring} every five to ten years. You all have seen it, strip shopping centers evolving to enclosed shopping malls, then power centers, and now Lifestyle Centers and the latest being Town Centers which usually combine both retail and residential development.

The County Commercial and Mixed Use Districts Ordinances are not in sync with current development trends. Our ordinances are generally out-of-date and unable to manage development without resorting to proffers and SUP's for almost all cases. And that is bad because it more often than not locks down the use and the architectural look of the building or buildings in a development. Many people would argue that's good, however I would argue that it is not. We are currently are seeing a lot of free standing drugstores, with the 2010 look. Most of these sites have proffers or SUP's that specifically tie the site to that use and look. What if these drugstores end up like video stores and are all gone in 10 or 15 years.

What do you do then - the short answer is come back to the Board of Supervisors and spend \$30k to 50k to get another SUP that's good for another 5 or 10 years or do nothing and leave the site sit vacant or put any user in the building to maintain some cash flow. What if you want to just update the look of your building? Well, once they know the answer is go to the Board of Supervisors, what happens many times is no update occurs. The long term result of this process is neither good for the developer or the Community.

The last Zoning District created was the Research and Technology District in 1998. To my knowledge it hasn't been used yet. Then looking ^{for a} at District that ~~is~~ misused or overused we have the Light Industrial District M-1 which was generally intended for manufacturing, currently being used for numerous shopping centers and many other commercial projects.

My point is if **the County** wants to encourage more Commercial Development it needs to update and realign its Districts allowing more development by right. This means:

- Revisit each Zoning District's uses and do not try to make each districts work for the entire County, but supplement them with Overlay Districts for portions of the County where more restrictive development controls are wanted. A good example of this is the Limited Business District that have stricter uses for areas that are designated Neighborhood Commercial.
- On traffic tie SUP's not solely to traffic generation but also to the existing capacity and level of service of the roads that the site traffic flows unto.
- Also if there needs to be architectural controls handle them by SUP with a 5 year expiration for most of the controls so architectural updates can occur without difficulty.

Thanks for listening.

AUGUST 22, 2010

MEMORANDUM TO POLICY COMMITTEE – PUBLIC HEARING (AUGUST 24TH)

FROM: JAMES CITY COUNTY CITIZENS COALITION (J4C)

SUBJECT: MIXED USE ZONING

In 2007, the Board of Supervisors approved an amendment to Section 24-527 of the Mixed Use District (MUD) Ordinance, specific to reducing setbacks. At that time, the J4C opposed the amendments for a number of reasons that apply equally today:

1. A few recent applications are insufficient reason for amending an established ordinance that has worked well overall.
2. Developers are using the MUD to avoid restrictions and to increase density. This places additional stress on water resources, schools, traffic, etc.
3. The proposed amendment is confusing. It appears to remove the Board’s authority to determine setbacks in specific cases. We believe the Board has ultimate responsibility to define and protect the character of the district by prescribing required setbacks. This authority must be retained by the Board.
4. The Comprehensive Plan should be followed. We should not be using the MUD ordinance outside of its designated mixed use areas.
5. We favor making an exception for affordable housing if the area meets all the requirements for mixed use.
6. School and other proffers need to be required of mixed use, as well as other types. In many instances, these could be expected to be higher due to the uncertainty of what the mixed use might be in the long term.
7. One of the important purposes of any Mixed Use project is to make more efficient use of the land. Buildings should be tightly packed to accommodate walking and biking. Any Mixed Use design should therefore produce a significant amount of open space, either on site or off (TDR).

As reflected in a number of our positions, we believe Mixed Use zoning should only be used when specifically defined in the Comp Plan. The J4C supports a removal of, or at least a major revision of the Mixed Use Ordinance that will make it more consistent with the current Comp Plan. We specifically believe the ordinance needs to be tightened and cover only particular development types not currently covered by the business and commercial zoning ordinances (M1, M2 and LB, etc.). We, and it seems, the majority of residents, believe it is essential to maintain the rural character of much of James City County and thus would oppose the rezoning of any A-1 land to Mixed Use (MU).

Likewise, the J4C is opposed to the addition of an Economic Opportunity (EO) zoning designation until such time as a thorough examination of its impacts has been completed. Governmental processes, like its services must be sustainable over time. We believe that defining a zoning category for a one time case is wrong and the ordinance should prohibit it. In general, we believe that there are already far too many ordinances governing the development process –for the benefit of developers, development staff and citizens.

We also believe that mixed use should not be applied to an application that does not bring with it a fully designed site plan. Local government officials still carry the responsibility for approving land uses only when they have been specifically defined and it is clear what the “mixed uses” will be and how they will look.

A comprehensive review of MU could determine that there is no need for this specific ordinance. The current business and commercial, and residential zoning ordinances appear to cover current requirements for MU. The review needs to examine carefully the permitted uses, the setbacks, and the use of this designation for areas proposed for development and/or requiring rehabilitation.

The J4C has reviewed the Comprehensive Plan text and its GSAs, as well as independent and local government “mixed use” documents, and find nothing that would not support our recommendations. Our review of the GSAs resulted in Figure 1 below, a summary of the 2009 Comp Plan’s GSA’s relative to mixed use (MUD). **(SHOW FIGURE 1) AND READ THIS:**

A large number of these uses would apply primarily in agricultural and forested areas of the County. If agricultural ones are determined to be of value and cannot be incorporated in the A-1 ordinance, they should then be separated into rural applications as opposed to urban or suburban development, within the MUD’s several sections. Another example of misplacement of uses would appear to be in the rental of rooms to a maximum of three. Isn’t this a factor in residential zoning districts? These questions lead to our suggestion that if an MU zoning is retained, it should be tied to the other residential and commercial districts where specific design standards can be retained.

As has been mentioned earlier, we believe the following Land Use GSA should be removed, consistent with citizens’ desires relative to growth and until the MU ordinance has been reviewed and determined to be relevant to lands not developed within the PSA.

“LAND USE GSA 1.4.6, pg. 248 – Encourage developments which provide mixed use development, as further defined in the Mixed Use Land Use Designation and Development Standards, within the Primary Service Area. Support design flexibility to promote mixing of various types of residential and non-residential uses and structures.”

During the last few months, we have examined a number of ordinances and program descriptions from other jurisdictions. Attached to our paper submissions is a power point description of the

City of Chesapeake's program that we believe would meet James City County's needs, should the need for such an ordinance be identified. It describes the benefits of the designation as well as specific aspects of how it works.

We have not had the time to review specific problems we have with the current ordinance other than those mentioned earlier in this statement. We hope to be able to factor these into our review of the revisions that will be made over the coming months. We would ask that specific attention be paid to citizens' concerns and that their wishes be incorporated into the final text. Where these apply to a very limited number of lots/developments, they should be considered for elimination. We believe that MU is one that fits this category. No attempt from developers to use this designation for dubious reasons should be approved. If it is to be retained, then it needs to be more specific and completely revised.

Specifically we offer the following recommendations:

1. Consider removing the "mixed use" ordinance from Code; relying on related ordinances
2. Reduce the number of permitted uses, if the ordinance is retained.
3. Remove Land Use GSA 1.4.6, page 248 from the Comp Plan.
4. Require binding and specific site plans to show approving officials the exact layout and configuration for any mixed use application.
5. Remove potential for variances and exceptions from applications; require specific setbacks and buffers, particularly on Community Character Corridors.
6. "If an MU ordinance is retained, it should be divided into "residential", commercial", "business", etc.
7. Mixed Use must not result in an increase in population over that expected from by-right.
8. Mixed Use data from the Kimley-Horn "James City County 200 Development Potential Analysis" should be updated and factored into decisions on the ordinance.

We will be pleased to be part of any working group considering the "Mixed Use" rewrite.

FIGURE 1. Goals, Strategies and Actions (GSAs) from the 2009 Comprehensive Plan that impact on Mixed Use District ordinance.

Environment. 1.1.5 continues regional efforts to ...identifies lands best suited for development. This should include type of development.

Economic Development. 1.1 would indicate expansion of the Enterprise Zones rather than creating a new category (EO). 1.4 places more emphasis on infill development, much of this may end up in a request for mixed use zoning.

Community Character. 1.1.1 focuses on development along Community Character Corridors protecting the natural and historic views of the area; development along the CCCs often includes MUD zoning.

1.1.3 encourages initiatives to ensure the development of quality industrial and office parks for potential economic development prospects.

1.2.1 relates primarily to development along CCCs in New Town Toano and Five Forks; possibly mixed use zoning.

1.3.9 focuses on consistency with the Development Standards in the Comp Plan.

1.5 relates to the preservation of existing vegetation during development.

Land Use, 1.2.1 provides for connecting neighborhoods with retail employment centers, parks, etc.

1.4 directs growth into designated growth areas. within PSA.

1.4.5 focuses on infill development, redevelopment within the PSA, providing strategies. Within 1.4.6 and 1.4.7 developments using MUD are encouraged (not supported by J4C).

FIGURE 2. PERMITTED USES (all structures to be erected or land to be used) THAT MIGHT BE CONSIDERED FOR DELETION

Residential Uses:

Accessory structures, as defined in section 24-2. (If this remains, it must have more specific descriptions)

Non-Residential Uses:

Automobile repair and service

Automobile service stations

Funeral homes, cemeteries and memorial gardens

Group quarters for agricultural workers

Heavy equipment sales and service

Home occupations as defined. (NOTE: Aren't these covered in Residential ordinances?)

Convention centers

Houses of worship and cemeteries accessory hereto

Manufacture and bottling of soft drinks and wine

Manufacture and processing of textiles and textile products

Manufacturing, compounding, assembly or treatment of products

Manufacturing, compounding, processing or packaging of cosmetic, toiletry and pharmaceutical products

Manufacture of carpets and carpet yarns

Manufacture or assembly of appliances, tools, firearms, hardware products and heating, cooling or ventilating equipment

Manufacture or assembly of electronic instruments, electronic devices or electronic components.

Manufacture of assembly of medical, drafting, metering, marine, photographic and mechanical instruments.

Processing, assembly and manufacture of light industrial products or components

Warehouse, storage and distribution centers

Welding and machine shops with storage

FIGURE 3. RECOMMENDATIONS

1. Consider removing the “mixed use” ordinance from Code; relying on related ordinances
2. Reduce the number of permitted uses, if the ordinance is retained.
3. Remove Land Use GSA 1.4.6, page 248 from the Comp Plan.
4. Require binding and specific site plans to show approving officials the exact layout and configuration for any mixed use application.
5. Remove potential for variances and exceptions from applications; require specific setbacks and buffers, particularly on Community Character Corridors.
6. “If a Mixed Use ordinance is retained, it should be divided into “residential”, commercial”, “business”, etc.
7. Mixed Use must not result in an increase in population over that expected from by-right.
8. Mixed Use data from the Kimley-Horn “James City County 2002 Development Potential Analysis” should be updated and factored into decisions on the ordinance.

We will be pleased to be part of any working group considering the “Mixed Use” rewrite.

**James City County Zoning Ordinance and Subdivision Ordinance
Planning Commission Public Forum
Tuesday, August 24, 2010**

**WILLIAMSBURG AREA ASSOCIATION OF REALTORS®
DISCUSSION POINTS**

The Williamsburg Area Association of REALTORS® is a professional trade association that represents the real estate profession and property owners throughout the communities of James City County and the City of Williamsburg, as well as a portion of both New Kent and York Counties. The Association, with its 500-plus members, works diligently to promote pro-housing and pro-business interests and supports legislative, regulatory and political efforts that reflect our mission.

Inherent to the Association are five guiding principles upon which we have based our comments.

1. Provide Housing Opportunity and Choice

Homeownership is the cornerstone of the American dream and deserves a preferred place in our system of values as it contributes to community responsibility; civic, economic, business and employment stability; family security and overall well being of a community. These objectives can be met through market-driven housing approaches that foster a wide-range of urban, suburban and rural housing choices at all price levels to suit a diverse population.

2. Build Better Communities

Real estate of all types flourishes best in livable communities that offer a high quality of life at a reasonable cost. Livable communities offer a variety of affordable housing choices, good schools, low crime, quality public services, efficient transportation systems, ample recreation and park areas, open space, strong employment base and an economically viable commercial sector. To promote these essential livable community elements, growth policies should encourage market-driven and culturally diverse growth patterns that sustain and enhance a community's quality of life.

3. Protect the Environment

To maintain a region's quality of life and to protect the environment, governments should consider policies and programs that aid the control of pollution; provide for programs that encourage preservation of natural resources, significant lands and properties of historic significance; and further encourage, through incentives, the protection of endangered species, aquifers, rivers/streams, agricultural lands, wetlands, scenic vistas, natural areas, and open space.

4. Protect Private Property Rights

Private property rights are fundamental to our free-market economic system and are protected by the 5th and 14th Amendments to the United States Constitution. Our

nation's economy depends on the preservation of the right to freely own, use and transfer real property.

5. Implement Fair and Reasonable Public Sector Fiscal Measures

To support adequately the infrastructure needs of communities resulting from growth, governments should cooperate in the adoption of balanced, fair, equitable and incentive-based approaches to finance and pay for the development, expansion and maintenance of roads, schools, water and sewer facilities. Revenue and financing mechanisms established to pay for necessary infrastructure costs should be shared proportionally by those segments of the population served by improvements and not just be borne by property owners.

Relative to the Zoning and Subdivision Ordinances, and specifically to the topics tonight regarding commercial and mixed-use land use districts, we offer the following comments and observations:

- We all know that business and industry are vitally necessary for a balanced tax base, employment, the health of a community and the growth of a community.
- Local real estate professionals are of the opinion that the County's current commercial and mixed use districts are old and outdated, allowing for very little in the way of "new" industry and commerce--i.e. web-based businesses, alternative energy industries, etc.
- The current districts are inflexible and do not allow for future industries tomorrow that none of us can predict today.
- The County should be highly creative about permitted uses in the various districts to maintain and expand current businesses, and to attract new businesses.
- The County should establish real incentives as part of creating more flexibility in the commercial districts. In other words, the County needs to do more to entice businesses to stay and to locate here. While streamlining the permit process and waiving fees are appreciated, it may not be enough in today's economic climate. There should be additional incentives—such as tax credits for the number of or types of jobs created, tax abatements for certain businesses, more technology incubators and enterprise zone approvals, etc.
- The County should encourage developments which provide mixed-use development and support design flexibility to promote mixing of various types of residential and non-residential uses and structures.
- The County should approve the Economic Opportunity land use designation, which through the Comprehensive Plan is designed to increase the non-residential tax base and stimulate the creation of jobs. This designation also will

promote mixed-cost housing with a strong emphasis on workforce housing and higher density development. We believe that the housing component of the Economic Opportunity land use designation is the key factor in driving its success, and we offer our assistance to work with the County on the housing sector within these areas.

The Association follows trends in today's marketplace, and we can work with the County to share the features that buyers many want including walkable communities, green design, small lot size and small square footage, as examples. We are working with a local government in another community on its zoning ordinance re-write, and have provided policy makers and staff with details on current trends in the homebuyers market. It appears that those details are providing beneficial to that community as it works toward framing its future land use and zoning decisions for its neighborhoods and residents. We can provide the same information to James City County.

It is through the zoning designation process, specifically commercial and mixed-use zoning, that James City County can increase the balance of our tax base so that less pressure is applied to residential properties.

We support the creation of jobs and area businesses so that additional opportunities are created for a skillful, young workforce. A strong local economy results in a diverse local community. However, the backbone of any of these job opportunities also is a strong housing market that allows employees to live and work in the same place.

To that end, we ask that the following be incorporated into the new ordinances:

- Encourage a balanced mixture of commercial, industrial and residential land uses, including redevelopment.
- Incentivize developers to incorporate workforce housing into their developments by allowing for bonus densities.
- Encourage infill development, the redevelopment of existing parcels and the adaptive reuse of existing buildings to efficiently use infrastructure and natural resources.

WAAR offers itself as a resource to the County. Having worked on a variety of local government enabling legislation at the state level, we can provide specific language and details that have the potential to be very positive and fit into the County's goals and objectives.

We look forward to engaging with you in zoning, land use and subdivision discussions, and to developing solutions in order to create an achievable vision for our community.

MEMORANDUM

DATE: February 24, 2011
TO: Policy Committee
FROM: Jason Purse, Senior Planner
SUBJECT: Multiple Use Districts/Form-Based Code and Redevelopment of Toano

I. Form-Based Code and Redevelopment

In 2006, the Board of Supervisors adopted design guidelines for the Toano Community Character Area (CCA). Toano was previously a vibrant hub in the County, but because of widening of Richmond Road and a population shift, needed some redevelopment and revitalization. Staff and Renaissance Planning Group established the design guidelines by surveying the remaining important historic structures, as well as working with the citizens to ensure their vision of a future Toano was achieved. Implementation of the guidelines has focused on developers redeveloping the area. During the Comprehensive Plan update process, form-based codes were discussed as a way to promote redevelopment of Toano, and a GSA was included in the final document that recommended evaluation of this option during the multiple use districts ordinance update. No actual form-based code language has been created for the Toano CCA to date. Staff is requesting feedback from the Policy Committee on the options below pertaining to ways to further promote the desired redevelopment and revitalization of Toano.

II. Discussion Items

1. Description of issue/problem and history
 - *One tool that can be explored is form-based code. A form-based code is a method of regulating development to achieve a specific urban form. It is a tool that favors regulating a property's form over its use. Form-based codes set certain standards for the appropriate form and scale of building facades, streets, and blocks within a given community. Whereas conventional zoning limits development of land to a single-use, form-based codes do not strictly limit the use of property, and therefore allow for mixed uses within the same block or building.*
2. Evaluation
 - *Finding the most appropriate way to spur redevelopment and revitalization of the Toano Community Character Area (CCA) requires consideration of a number of different variables. First, staff considered the existing zoning and Comprehensive Plan designation of the area. A majority of the southern side of Richmond Road is zoned B-1, General Business, but there are also parcels zoned PL, Public Lands, and A-1, General Agricultural. On the northern side a majority of land is zoned M-1, Limited Business/Industrial, but there are also parcels zoned M-2, General Industrial; A-1, General Agricultural; and PUD-R, Planned Unit Development Residential. The Comprehensive Plan designates the entire Community Character Area Mixed-Use. There are specific descriptions of suggested uses and intensities for different areas of the CCA, but the entire area is designated Mixed-Use with a general emphasis on residential and retail/commercial development.*

- Existing development in Toano varies. On the northern side of Richmond Road there are three historic structures along Richmond Road, as well as a number of small businesses. Behind the historic structures there is an apartment complex. Further down Richmond Road, Toano has a much more industrial appearance, with an established lumber yard, Luck Stone Construction complex, as well as the Bryant construction materials storage facility. Obviously, these uses vary greatly in terms of aesthetics, and ability to meet the design criteria established in the design guidelines. The design guidelines promote redevelopment of the CCA to include residential and retail/commercial space in an effort to bring a sense of place to Toano. The guidelines do acknowledge the existing industrial infrastructure, but also acknowledge that these uses are not compatible with the residential/retail area proposed for most of historic Toano and note that they should be adequately buffered from other land uses.
- Given the varying level of existing development and the majority of land with industrial zoning throughout the entire CCA, a form-based code, may not be appropriate. The existing industrial areas are still viable uses for their location and having a form-based code overlaid on top of those areas may prohibit or prevent expansion of those valuable uses to the County. A use based Euclidian model would be more appropriate.
- For the historic area, a form-based approach may be more feasible. This section of Toano has a very distinct character and has similar uses both on-the-ground and proposed in the Comprehensive Plan.

3. History

- The Toano Community Character Area design guidelines, approved in 2006, have specific recommendations regarding the form of buildings in the Toano CCA. These forms are based on existing structures that were deemed important during the study process. The building forms could be translated into a code for future developers to follow.
- Similarly, there are complete street, landscaping, setback, and building massing designs that could be built into the code.
- The existing adopted design guidelines serve as a legislative version of form-based code currently. In other words, during review of cases that require approval from the Board of Supervisors, the criteria listed in the guidelines is evaluated along with the Comprehensive Plan language and designation description.
- Only two form-based codes have been adopted in Virginia. Arlington County and Portsmouth both have form-based codes, but both of these codes are for infill sites in dense urban areas.

4. Pros and Cons

- The primary incentives to promote redevelopment are greater potential development densities and more permitted uses. Projects under 60,000 s.f. that conform to the code are permitted by right. The code also lists administrative adjustment standards to provide relief from the form controls. Since these are primarily infill codes, infrastructure responsibilities are shared by private developers and by the cities. All provisions will be incremental. For example, developers must install utilities, sidewalks, street trees, and street furniture but would only be required to build new roads if the project site included these proposed roads. Meanwhile, the cities could bring existing roads up to standard using whatever revenue sources are currently used for transportation improvements.

- *Proponents have used the certainty afforded by a form-based code as a major selling point. In other words, if the code has been tailored to a specific area, and if that tailored code was developed through a participatory planning process, most development approvals could be handled administratively.*
- *Since form-based codes are not designed to limit uses or density, having a form-based code for Toano may allow more residential density than would be desirable. A number of residential rezoning applications have failed to gain the necessary approvals in Toano because of their impacts on the area. Allowing a form-based code, which limits the building size and scale but does not address the possible density of a development, could have adverse impacts on the infrastructure network, if the developer does not have an adequate balance of uses. One of the benefits of using the Toano design guidelines as a legislative form-based code is that the impacts of the development can still be evaluated, while the form of the buildings is still paramount to the success of the project.*
- *A by-right form-based code would not produce cash proffers for residential uses.*
- *Because of the complexities of drafting a form-based code (and possibly rezoning the land), the actual form-based code document would not be produced during this ordinance amendment update process. Actual language would need to be drafted after the completion of this process.*

5. Comprehensive Plan GSAs, public input, and PC and BOS direction

- *LU 4.5-Promote infill, redevelopment, revitalization, and rehabilitation within the PSA.*
- *LU 4.5.3-Promote infill, redevelopment, revitalization, and rehabilitation within the PSA...Revisions to the Zoning Ordinance to create a form based code or code overlay that could apply to specific areas, such as Toano.*

6. Solutions and policy options

- *Given the existing zoning and uses in Toano, staff does not believe a form-based code is the best way to promote redevelopment for the entire Toano Community Character Area. The "historic" section of Toano may be more appropriate for a form-based code. However, for the form-based code to truly benefit developers, the form-based code would need to include a by-right development option. This option, as seen in Arlington and Portsmouth, would require the County to take responsibility for some of the infrastructure improvements in the area. The County will most likely need to undertake studies of the transportation corridor to determine the adequacy of the network and the acceptable amount of development that the current infrastructure can handle, prior to any by-right development being approved.*
- *If a by-right form-based code is not implemented it will lessen the impact on spurring redevelopment, as it would entail the same legislative review required with a rezoning and no guarantee of added benefits (i.e. added density). The existing Toano Community Character Area Study Design Guidelines are currently acting as a legislative form-based code.*
- *Staff will discuss a redevelopment district in the next section that may also be an effective tool to promote redevelopment in both Toano and the entire County.*

5. Staff recommendation

- *Staff recommends against adopting a form-based code for the entire Toano CCA. However, the groundwork for a code is currently present in the adopted Toano CCA design guidelines. Staff believes it could be most appropriately applied to the "historic" section of the Toano CCA. Alternatively, staff believes a modified form-based code is currently being implemented through guidelines for legislative cases. Staff believes that the flexibility provided by the*

redevelopment district, that will be discussed in the next section, may provide the both the flexibility desired by developers and assurances afforded the legislative process to be an acceptable alternative that will still meet the goals of the Comprehensive Plan.

B. Redevelopment District Ordinance

1. Description of issue/problem and history

LSL, the consultant hired by the County to work on the sustainability audit, has provided the County with a number of suggestions to help the County become more sustainable. One of the fundamental concepts of the study is making redevelopment more attractive to potential developers. One tool they have suggested is a redevelopment district. The purpose of the redevelopment district is to encourage redevelopment by providing design flexibility to the developer in terms of the height, area, and dimensional requirements. Currently, in the various business/industrial districts uses are limited by setback, yard requirement, lot size, and other dimensional requirements. There are examples of lots created before the zoning ordinance was in effect that, because of current regulations, would not be able to redevelop easily. A new ordinance, that allowed this type of dimensional flexibility with the inclusion of certain public benefits, could be a solution for developers and for the County.

2. Comprehensive Plan GSAs, public input, and PC and BOS direction

- *LU 4.5-Promote infill, redevelopment, revitalization, and rehabilitation within the PSA.*
- *ED 5- Encourage infill development, the redevelopment of existing parcels, and the adaptive reuse of existing buildings to efficiently use infrastructure and natural resources.*

3. Solutions and policy options

As described in the residential district memo, using the Redevelopment District would require a legislative review (rezoning); however, it would provide needed flexibility to the developer if the project meets the criteria established for redevelopment parcels. The suggestions provided by the consultant to include as criteria for qualifying for a Redevelopment District include:

- a. Mixed-use development with residential and non-residential uses or a variety of housing types;
- b. Redevelopment of brownfield or greyfield sites;
- c. Pedestrian/transit-oriented design with buildings oriented to the sidewalk and parking to the side or rear of the site;
- d. High quality architectural design beyond the site plan requirements of this chapter;
- e. Extensive landscaping beyond the site plan requirements of this chapter;
- f. Preservation, enhancement or restoration of natural resources (trees, slopes, non-regulated wetland areas, views to the river);
- g. Preservation or restoration of historic resources;
- h. Provision of open space or public plazas or features;
- i. Efficient consolidation of poorly dimensioned parcels or property with difficult site conditions (e.g. topography, shape etc.);

- j. Effective transition between higher and lower density uses, and/or between non-residential and residential uses; or allow incompatible adjacent land uses to be developed in a manner that is not possible using a conventional approach;
- k. Shared vehicular access between properties or uses;
- l. Mitigation to offset impacts on public facilities (such as road improvements); or
- m. Significant use of sustainable building and site design features such as: water use reduction, water efficient landscaping, innovative wastewater technologies, low impact stormwater management, optimize energy performance, on-site renewable energy, passive solar heating, reuse/recycled/renewable materials, indoor air quality or other elements identified as sustainable by established groups such as the US Green Building Council (LEED) or ANSI National Green Building Standards.

Staff understands that many of these points would require additional definition (and possibly graphics) to ensure conformity. The list has been offered as a starting point for discussion before more specific language is crafted.

Under this model, the County would promote flexibility for developers who wish to redevelop property, but would still have controls over the outcome of the development, as it would require a legislative review (including proffers to mitigate impacts that would not be possible under a by-right model). As can be seen from the ordinance language, any redevelopment must meet the goals of the Comprehensive Plan and must be compatible with adjacent property and uses.

5. Staff recommendation

- *Staff recommends creating the Redevelopment District as a tool to promoting redevelopment in Toano and in the County at large. This type of district would maintain protections from incompatible uses through the legislative review process, while also providing developers with added flexibility from the design requirements of the underlying zoning for the Toano CCA. Specifically, the design guidelines would still be considered during the review of any Redevelopment District application, and would still be applied as a legislative form-based code, but the Redevelopment District would allow the rest of the County to have additional options for redevelopment of property.*

III. Conclusion

There are many options to help promote redevelopment, both in Toano and throughout the County. Since the existing Toano CCA design guidelines are currently functioning as a legislative form-based code, having a by-right form-based code option would be the next possible step. Further study of the existing infrastructure and development capacity may be needed to implement a by-right option, as many of the improvements guaranteed during a legislative process (from the developer) would fall onto the County under a by-right scenario. Given the limitations of a form-based code, staff also investigated other redevelopment strategies. A Redevelopment District is another means of promoting the re-use of land, rather than relying heavily on Greenfield development. Both of these options can be implemented, but the form-based code approach would only be possible in the Toano CCA, as currently that area is the only area that has approved form-based design guidelines. Staff requests guidance from the Policy Committee on which options for redevelopment may be appropriate for the County to

undertake. Staff has also included links to the Toano CCA design guidelines and form-based codes for Arlington and Portsmouth. The sample form-based code ordinance is being attached as a hard copy.

Associated Links

Toano CCA design guidelines

<http://www.jccegov.com/pdf/devtmgmtpdfs/planning/toano/Final%20Adopted%20Guidelines.pdf>

Arlington (Virginia), County of. 2004. The Columbia Pike Special Revitalization District Form Based Code.

<http://www.arlingtonva.us/Departments/CPHD/Forums/columbia/current/CPHDForumsColumbiaCurrentCurrentStatus.aspx>.

Portsmouth (Virginia), City of. 2009. *Uptown D2 District Form-Based Code*.

http://www.portsmouthva.gov/planning/images/destinationptown/PortsmouthUptownD2_Nov24-FINAL.pdf.

MEMORANDUM

DATE: March 16, 2011
TO: Policy Committee
FROM: Ellen Cook, Senior Planner II
Jason Purse, Senior Planner
SUBJECT: Urban Development Areas

Section 15.2-2223.1 of the *Code of Virginia* requires localities with 20,000 or more residents and at least five percent (5%) population growth over 10 years (which includes James City County) to incorporate one or more higher density “Urban Development Areas” (UDA) designations within their comprehensive plans. The intent of this law was to discourage sprawl by concentrating new development in Virginia’s growing localities in areas where the necessary infrastructure either has been built or can be built in a more efficient manner.

In the Code of Virginia, UDAs are defined as areas “appropriate for higher density development due to the proximity of transportation facilities, the availability of a public or community water and sewer system, or proximity to a city, town or other developed area.” The legislation requires that the UDA be “appropriate for development at a density on the developable acreage of at least four single-family residences, six townhouses, or 12 apartments, condominium units, or cooperative units per acre, and an authorized floor area ratio (FAR) of at least 0.4 per acre for commercial development, or any proportional combination thereof.” The legislation also requires that the UDA designation be sufficient to accommodate at least 10 years of projected residential and commercial growth within the locality. The comprehensive plan is required to incorporate principles of new urbanism and traditional neighborhood development (TND), which is defined to include, but not be limited to, elements such as pedestrian-friendly road design, preservation of natural areas, and mixed-use neighborhoods.

The legislation specifies that comprehensive plans must be made to comply with the law; however, localities may determine that their plans already “accommodates growth in a manner consistent with the [UDA] section” in which case they may certify such compliance by adoption of a resolution. In parallel with the approach used by York County, staff believes that the current James City County 2009 Comprehensive Plan meets the UDA requirements by virtue of the designation of specific areas as being appropriate for mixed-use development. In forming this conclusion, staff considered the following:

- The UDA law requires that a minimum of ten years of projected growth be accommodated in UDAs designated in a locality’s comprehensive plan. According to official state projections¹ and figures from the U.S. Census Bureau, ten years of growth would equate to approximately 15,772 residents, or approximately 6,330 dwelling units, based on the most recent average household size estimate of 2.49 persons per household.

¹ Virginia Employment Commission (VEC)

- The 2009 Comprehensive Plan currently designates fourteen areas for mixed-use areas². The Comprehensive Plan’s mixed use designation description as applied to these areas essentially mirrors the TND principles outlined in the UDA law:
 - The basic description states, “Mixed use areas are centers within the PSA where higher density development, redevelopment, and/or a broader spectrum of land uses are encouraged. Mixed Use areas located at or near interstate interchanges and the intersections of major thoroughfares are intended to maximize the economic development potential of these areas by providing areas primarily for more intensive commercial, office, and limited industrial purposes.”
 - The mixed use development standards state, in part, “Mixed use developments should create vibrant urban environments that bring compatible land uses, public amenities, and utilities together at various scales. These developments should create pedestrian-friendly, higher-density development, and a variety of uses that enable people to live, work, play and shop in one place, which can become a destination.”

- With regard to the legislation’s specified commercial intensity, the Comprehensive Plan’s Mixed Use Designation Recommended Uses and Intensity section states, “The recommended Floor Area Ratio (FAR)³ range will depend on the context of the specific Mixed Use area, but for all areas it is strongly encouraged that opportunities for on-street parking, shared parking, structured parking and other measures to cohesively plan development be considered that maximize the efficient use of land and achieve FARs close to, or greater than, 0.4.” The Mixed Use and Planned Unit Development zoning districts, which complement the Comprehensive Plan’s Mixed Use Designation, would certainly allow up to and beyond a 0.4 FAR (there is no limit on FAR in either district).

- With regard to the legislation’s specified residential density, the Comprehensive Plan’s Mixed Use Designation Recommended Density section states: “Moderate to high density residential uses with a maximum gross density of 18 dwelling units per acre could be encouraged in Mixed Use areas where such development would complement and be harmonious with existing and potential development and offer particular public benefits to the community.” The Mixed Use and Planned Unit Development zoning districts allow single-family structures, townhomes and apartments at densities which accord with the UDA regulations (up to 18 du/ac).

- Based on the approximate acreages of the areas designated in the Comprehensive Plan for Mixed Use, and assuming development in the allowed ranges permitted in the Mixed Use and Planned

² For the purposes of this memo, two of the mixed-use areas, the Jamestown Ferry Approach and James River Commerce Center mixed use area, will not be considered due to their more specialized nature.

³ Floor Area Ratio is the ratio of the total floor area of buildings on a certain location to the size of the land of that location. As a formula: Floor area ratio = (Total covered area on all floors of all buildings on a certain plot)/(Area of the plot).

Unit Development districts, staff has calculated the approximate development potential figures in the table below.

Area	Approx. Total Mixed Use Designation Acres*	Commercial Floor Area (sq.ft.)	Dwelling Units
Stonehouse	1,684	4,040,110	3,690**
Anderson's Corner	63	75,315	45
Toano	213	141,570	163
Norge	60	63,160	116
Croaker Interchange	724	2,170,000	1,038
Lightfoot	300	76,230	251
New Town	690	600,000	902
Five Forks	73	43,560	10
Williamsburg Crossing	86	146,361	135
Routes 60/143/199 Interchanges	264	228,690	158
GreenMount	40	105,544	128
Treyburn Drive	18	99,970	12
Total	4,215	7,790,510	6,648

* While this table lists the approximate total area of the Comprehensive Plan designation, the approximate development potential figures are based on an analysis of undeveloped or potentially re-developable areas, and master planned caps.

** This total includes the whole master-planned Stonehouse community, which includes some area outside the Comprehensive Plan mixed use designation, but which is all zoned as a unified Planned Unit Development (PUD). The total acreage of the remaining Stonehouse PUD is 4,666.

It is important to note that the UDA law only requires that the Comprehensive Plan provide the opportunity for higher density mixed-use development with at least four residential units per acre and a commercial Floor Area Ratio of 0.4. That opportunity is clearly available through the Plan's Mixed Use designations and the complementary Mixed Use and Planned Unit Development zoning districts. Therefore, staff believes that the areas listed in the table above are effectively Urban Development Areas and that the Board can certify that its Comprehensive Plan "accommodates growth in a manner consistent with [the UDA requirements]." Staff would also note that the 2009 Comprehensive Plan's Economic Opportunity designation could likely be included as a UDA area in the future.

Staff plans to recommend to the Board that a resolution be adopted certifying that the 2009 Comprehensive Plan accommodates growth in a manner consistent with 15.2-2223.1 of the *Code of Virginia*.

Attachments

1. Section 15.2-2223.1 of the Code of Virginia

§ 15.2-2223.1. Comprehensive plan to include urban development areas.

A. For purposes of this section:

"Commercial" means property devoted to usual and customary business purposes for the sale of goods and services and includes, but is not limited to, retail operations, hotels, motels and offices. "Commercial" does not include residential dwelling units, including apartments and condominiums, or agricultural or forestal production, or manufacturing, processing, assembling, storing, warehousing, or distributing.

"Commission" means the Commission on Local Government.

"Developable acreage," solely for the purposes of calculating density within the urban development area, means land that is not included in (i) existing parks, rights-of-way of arterial and collector streets, railways, and public utilities and (ii) other existing public lands and facilities.

"Population growth" means the difference in population from the next-to-latest to the latest decennial census year, based on population reported by the United States Bureau of the Census. In computing its population growth, a locality may exclude the inmate population of any new or expanded correctional facility that opened within the time period between the two censuses.

"Urban development area" means an area designated by a locality that is (i) appropriate for higher density development due to its proximity to transportation facilities, the availability of a public or community water and sewer system, or a developed area and (ii) to the extent feasible, to be used for redevelopment or infill development.

B. Every locality that has adopted zoning pursuant to Article 7 (§ [15.2-2280](#) et seq.) of this chapter and that (i) has a population of at least 20,000 and population growth of at least five percent or (ii) has population growth of 15 percent or more, shall, and any locality may, amend its comprehensive plan to incorporate one or more urban development areas.

1. The comprehensive plan of a locality having a population of less than 130,000 persons shall provide for urban development areas that are appropriate for development at a density on the developable acreage of at least four single-family residences, six townhouses, or 12 apartments, condominium units, or cooperative units per acre, and an authorized floor area ratio of at least 0.4 per acre for commercial development, or any proportional combination thereof.

2. The comprehensive plan of a locality having a population of 130,000 or more persons shall provide for urban development areas that are appropriate for development at a density on the developable acreage of at least eight single-family residences, 12 townhouses, or 24 apartments, condominium units, or cooperative units per acre, and an authorized floor area ratio of at least 0.8 per acre for commercial development, or any proportional combination thereof.

3. The urban development areas designated by a locality shall be sufficient to meet projected residential and commercial growth in the locality for an ensuing period of at least 10 but not

more than 20 years, which may include phasing of development within the urban development areas. Where an urban development area in a county with the urban county executive form of government includes planned or existing rail transit, the planning horizon may be for an ensuing period of at least 10 but not more than 40 years. Future residential and commercial growth shall be based on official estimates of the Weldon Cooper Center for Public Service of the University of Virginia or official projections of the Virginia Employment Commission or the United States Bureau of the Census.

4. The boundaries and size of each urban development area shall be reexamined and, if necessary, revised every five years in conjunction with the review of the comprehensive plan and in accordance with the most recent available population growth estimates and projections.

5. The boundaries of each urban development area shall be identified in the locality's comprehensive plan and shall be shown on future land use maps contained in such comprehensive plan.

6. The comprehensive plan shall incorporate principles of traditional neighborhood design in the urban development area, which may include but need not be limited to (i) pedestrian-friendly road design, (ii) interconnection of new local streets with existing local streets and roads, (iii) connectivity of road and pedestrian networks, (iv) preservation of natural areas, (v) mixed-use neighborhoods, including mixed housing types, with affordable housing to meet the projected family income distributions of future residential growth, (vi) reduction of front and side yard building setbacks, and (vii) reduction of subdivision street widths and turning radii at subdivision street intersections.

7. The comprehensive plan shall describe any financial and other incentives for development in the urban development areas.

8. A portion of one or more urban development areas shall be designated as a receiving area for any transfer of development rights program established by the locality.

C. No locality that has amended its comprehensive plan in accordance with this section shall limit or prohibit development pursuant to existing zoning or shall refuse to consider any application for rezoning based solely on the fact that the property is located outside the urban development area.

D. Any locality that would be required to amend its plan pursuant to subsection B that determines that its plan accommodates growth in a manner consistent with subsection B, upon adoption of a resolution describing such accommodation and describing any financial and other incentives for development in the areas that accommodate such growth, shall not be required to further amend its plan pursuant to subsection B. Any locality that has adopted a resolution certifying compliance with subsection B prior to February 1, 2010, shall not be required to comply with this subsection until review of the locality's comprehensive plan as provided for in provision 4 of subsection B.

E. Localities shall consult with adjacent localities, as well as the relevant planning district commission and metropolitan planning organization, in establishing the appropriate size and location of urban development areas to promote orderly and efficient development of their region.

F. Any county that amends its comprehensive plan pursuant to subsection B may designate one or more urban development areas in any incorporated town within such county, if the council of the town has also amended its comprehensive plan to designate the same areas as urban development areas with at least the same density designated by the county. However, if a town has established an urban development area within its corporate boundaries, the county within which the town is located shall not include the town's projected population and commercial growth when initially determining or reexamining the size and boundary of any other urban development area within the county.

G. To the extent possible, federal, state and local transportation, housing, water and sewer facility, economic development, and other public infrastructure funding for new and expanded facilities shall be directed to the urban development area, or in the case of a locality that adopts a resolution pursuant to subsection D, to the area that accommodates growth in a manner consistent with this section.

H. Documents describing all urban development area designations, as well as any resolution adopted pursuant to subsection D, together with associated written policies, zoning provisions and other ordinances, and the capital improvement program shall be forwarded, electronically or by other means, to the Commission within 90 days of the adoption or amendment of comprehensive plans and other written policies, zoning provisions and other ordinances. The Commission shall annually report to the Governor and General Assembly the overall compliance with this section including densities achieved within each urban development area. Before preparing the initial report, the Commission shall develop an appropriate format in concert with the relevant planning district commission. Other than the documents, policies, zoning provisions and other ordinances, resolutions, and the capital improvement program forwarded by the locality, the Commission shall not impose an additional administrative burden on localities in preparing the annual report required by this subsection.

I. Any locality that becomes subject to provision 2 of subsection B shall have until July 1, 2012, to amend its comprehensive plan in accordance with this section.

J. Any locality that becomes subject to this section due to population growth shall have two years following the report of the United States Bureau of the Census made pursuant to P.L. 94-171 to amend its comprehensive plan in accordance with this section.

(2007, c. [896](#); 2009, c. [327](#); 2010, cc. [465](#), [528](#).)

MEMORANDUM

DATE: February 24, 2010

TO: Policy Committee

FROM: Ellen Cook, Senior Planner II
Sarah Propst, Planner

SUBJECT: Green Building

I. Introduction

Green building and design is the practice of creating and using resource-efficient models of construction, renovation, operation, maintenance and demolition. Green building focuses on sustainable site planning and design, safeguarding water resources and promoting water efficiency, energy efficiency and renewable energy, conservation of materials and resources, and indoor environmental quality. When viewed on a regional scale, green building and design includes the interconnectivity of neighborhoods and communities, alternative forms of transportation, and preservation of natural resources. Investigating application of green building principles in James City County was included in the Ordinance update methodology.

II. History

A Green Building Design Roundtable stakeholder group met from March 2009 to June 2010. Among other activities, the Roundtable researched the methods other localities are using to encourage or require the use of green building techniques for private development in their communities. The Roundtable created a report with recommendations which was adopted by the Board of Supervisors at its July 27, 2010, meeting. The report contains two major directions for ordinances and policies as they apply to land development. First, the report recommends that for rezoning or SUP projects that involve a building over a certain size (for instance, 10,000 square feet), EarthCraft or LEED certification, or an equivalent certification, is justified and should be expected. Second, the report also recommends that for development that doesn't require legislative approval, the best approach is to encourage, rather than mandate, sustainable development by the use of incentives, education, and a positive example set by the County in the development of public projects. To this end, the Roundtable report includes an appendix listing possible methods to encourage sustainable development. The Roundtable report will be provided to the Policy Committee electronically and will also be posted on the Ordinance update webpage materials section at: <http://www.jccplans.org/schedule.html>.

III. Board Direction, Comprehensive Plan Goals, Strategies and Actions, public input, Sustainability Audit

- The Board adopted a policy for public facilities on March 23, 2010.
- The Green Building Roundtable Report presented to the Board is summarized in the History section above.
- At the Ordinance update kick-off work session on August 10, 2010, the Board generally expressed support for green building concepts, and discussed voluntary versus mandatory requirements.
- Several speakers made comments on Green Matters at the Planning Commission forums, including Robert Duckett of the Peninsula Housing and Builders Association (his comments were primarily in relation to the Residential sections) on September 1, and Susan Gaston of the Williamsburg Area Association of Realtors on September 27. Their remarks can be found at: <http://www.jccplans.org/what.html>.

- The 2009 Comprehensive Plan’s Residential Development Standards includes adhering to green building guidelines, such as LEED (Leadership in Energy and Environmental Design), EarthCraft, or successor or equivalent as an element of enhanced environmental protection.
- The Sustainability Audit encourages addressing use of green construction and technology, efficient provision and use of energy, and reduction in waste in the ordinance.

IV. Discussion Items

The items below discuss not only thresholds (size, use, etc.) for application of green building techniques, but also a number of related issues, such as certification types, verification, exemptions, program/policy administration, and enforcement.

A. How Can the County Verify that Green Techniques Have Been Used?

A number of programs have been developed over the years that have put together a standard set of green building practices, while allowing for customization and innovation. The most prominent among these programs is LEED (Leadership in Energy and Environmental Design). (Page 7 of the Roundtable report discusses other programs such as the NAHB’s Model Green Homebuilding Guidelines.) LEED is a comprehensive green building program (covering energy efficiency, water conservation, etc., and a wide range of construction types¹), while other programs focus on certain aspects of green building such as energy efficiency (such as Energy Star) or are developed for specific construction types (such as schools or laboratories). Based on the research and discussion of the group, the Roundtable recommended use of two programs – LEED and EarthCraft. Subsequent review of localities further supports the Roundtable’s recommendations, as many localities use LEED or a LEED-based system as the primary benchmarking green building program in their communities. Including EarthCraft as a second benchmark program complements LEED, as the EarthCraft focus is on residential units, and the EarthCraft program has been used locally for Office of Housing and Community Development projects and other projects, thus creating a certain level of local expertise.

While using these programs as the primary benchmarking programs, it may be reasonable to make provisions for developers to use other equivalent programs, subject to Planning Director consideration and approval on a case-by-case basis. In addition, given that development of programs in this field is active and on-going, it may be reasonable to make provisions for examining and reconsidering the primary benchmark programs on a semi-annual or other reasonably frequent basis to allow for changes or additions to the Policy.

Staff Recommendation:

Use LEED and EarthCraft as the County’s primary benchmark programs, with provisions for use of equivalent programs.

B. Should the County Look for Actual Program Certification or Verify Checklist Points Itself?

Green building programs such as LEED and EarthCraft are set up as a checklist of practices in a set of categories, each of which is noted as either a prerequisite/required item or an optional item, and each of which has a point value associated with it. Obtaining basic (i.e. “Certified” level) or higher levels of certification entails carrying

¹ There are specialized LEED programs for each of the following: new construction (which includes high-rise residential buildings); existing buildings: operation and maintenance; commercial interiors; core & shell; retail; healthcare; homes (which includes single family units through mid-rise multi-family, and can include mixed-use buildings with at least 40 – 60% residential floor space); and neighborhood development.

out the prerequisites/required items and accumulating points from enough of the other practices to reach a specified threshold. Obtaining certification also means registering with the program, paying the program fee(s), submitting the documentation paperwork, and completing any required inspections.

Some localities have opted to use the checklist of a program such as LEED, but not require actual certification. This potentially allows for the program fee and program documentation process to be eliminated and/or for the locality to adjust, if desired, which items are prerequisites/required. These could be viewed in a positive light, so it is worth examining the implications for both the fee and program documentation aspect, and prerequisite adjustment aspect.

With regard to fees and program documentation, staff has been able to identify the following information:

- **EarthCraft** - The EarthCraft program fee for certification of a home is \$950. (If the home is over 3,000 square feet, there is an additional fee of \$0.15 per square foot.) This fee covers everything, including design review, energy modeling, technical assistance, site inspections by the local private-section inspector affiliated with EarthCraft, and final testing. The fee does not depend on the level of certification that is being pursued, and there can be discounts for townhouses or identical models; this discount would be negotiated on an individual project basis.
- **LEED for New Construction** - The registration fee is \$900 for members or \$1,200 for non-members. The certification fee depends on the size of the structure, the desired review type (separate or combined design and construction reviews), whether the developer is a member, and whether expedited review is sought. For example, for a member seeking certification of a building less than 50,000 square feet with combined design and construction review on a non-expedited time frame, the fee would be \$2,250.
- **LEED for Homes** - For single family homes, the member fees are \$150 for registration and \$225 for certification. However, LEED for Homes requires completion of on-site inspections prior to certification, so additional LEED Provider verification costs would apply.

If actual certification is not required, it means that the responsibility of verifying compliance with the checklist falls to the County. From the research that staff has done, other localities that have pursued this route appear to have dedicated green building program staff to review documentation and meet with applicants, and dedicated green building inspection staff to conduct inspections. Planning staff has reviewed the EarthCraft checklist with Code Compliance and Environmental Division staff to determine which, if any, items are currently inspected by their staff as part of their existing duties². This review indicated that inspection of many of the prerequisite/required items is not part of their current duties, and that many of the credit/optional items which allow for developer customization and flexibility are also not part of current duties. This indicates that County verification using the EarthCraft checklist would not be possible without additional resources.

Some localities have eliminated certain items as prerequisite or required items. One example of a LEED prerequisite which has been eliminated by a locality is the commissioning aspect (LEED Energy and Atmosphere Prerequisite #1). Building commissioning verifies that the project's energy-related systems are installed and calibrated to perform according to the owner's project requirements, basis of design and construction documents. Benefits of commissioning include reduced energy use, lower operating costs, fewer contractor callbacks, better building documentation, improved occupant productivity and verification that the systems perform in accordance with the owner's project requirements. However, as a downside from a cost and process

² Note that in many localities where the building inspection staff serves to verify compliance, the green building program has been inserted in the local building code. Local adjustment of the building code is not an option in Virginia.

standpoint, for buildings over 50,000 square feet, it does mean that a commissioning authority separate from the design and construction team must be hired. If prerequisite items are altered, it automatically means that compliance verification fall to the locality. In addition, adapting the checklist to decide if some of the prerequisites should be removed would likely mean a time and work-intensive process, and could result in building outcomes that provide less community benefit and potentially less investment payback. Since both LEED and EarthCraft are time-tested and established programs, it seems reasonable that items they indicate as prerequisites/required serve a fundamental purpose in achieving green building goals. Staff would note that a number of legislative projects in James City County, even in the absence of a policy, have proposed certification by LEED or EarthCraft (examples include Stonehouse Amenity Center, Premium Outlets expansion, and Candle Factory Food Lion).

Staff Recommendation

In concurrence with the Roundtable report, staff recommends that actual program certification be the expected County standard, given the desire for verification of the practices committed to by the developer and given current resources.

C. Three Interrelated Issues: Level of Certification, Sizes or Percent of Development, and Expected versus Incentivized.

The Roundtable report recommends that basic certification be expected for buildings over a certain size, citing 10,000 square feet. (The Roundtable report did not specify a recommendation for number or percent of residential units.) The report also recommends that for other development, the best approach is to encourage, rather than mandate, sustainable development by the use of incentives, education, and a positive example set by James City County in the development of public projects. Achieving green building certification requires additional effort to plan and document and some up-front additional cost (both for program administrative fees and for the actual design, materials and construction). Given this, staff investigated how this recommendation compared to other programs. Staff found that the policies or ordinances adopted by localities across the country vary fairly widely in terms of these three elements:

- **Level of Certification** - The LEED program has Certified, Silver, Gold and Platinum levels. The EarthCraft Program has Certified, Gold and Platinum levels. Attaining higher levels means expending additional effort and potentially additional cost. Many localities set the standard at Certified for private development, while in other localities, the level depended on the two factors below. (The James City County policy for public facilities specifies LEED Silver as the general standard.)
- **Size of Structure/% of Development** - While many localities require adherence to their green building program for all new construction, many others specify buildings over a certain size. Some localities also link building size to achieving certain certification levels (for example, buildings between 5,000 and 50,000 square feet should achieve LEED Certified, and buildings between 50,000 and 100,000 should achieve LEED Silver, etc.). In terms of residential, a decision would need to be made about whether certification expectations would apply to all units or a certain percentage/number of the units.
- **Expected versus Incentivized** - In some localities (such as Arlington County, VA), adherence to their green building program is expected or required, either generally, or in circumstances where a special type of approval or exception is sought by a developer. In other localities (such as Gainesville, FL) , adherence to a green building program is linked to incentives such as density/floor area ratio bonuses, expedited review of plans or permits, or waiver of review fees. Some localities expect/require adherence for a basic level (such as LEED Certified) for most development, but provide incentives for higher levels of certification.

Staff Recommendation

In concurrence with the Roundtable report, staff recommends expecting by policy that rezoned or specially-permitted buildings over 10,000 square feet application achieve green building certification at the basic certified level. In terms of residential development, the Roundtable did not specify a level of development for which the certification standard would apply. Staff has also not been able to find much information to date on how this is treated in other localities. Therefore, at this time, staff is making a preliminary recommendation that the policy expectation be achieving basic level certification for 35% of homes within proposed developments. Staff also preliminarily recommends that this apply to major subdivisions (developments of greater than 9 lots). In addition, staff recommends including opportunities in the ordinance to incentivize higher certification levels (Silver, Gold, etc.), such as density bonus provisions in the Cluster Overlay District, and/or for development that would otherwise be below the Policy threshold. Finally, staff recommends investigating ways to provide recognition to individuals and companies that achieve certification; one possibility would be to present resolutions of recognition at Board of Supervisors meetings.

D. Administration/Enforcement

With any policy or regulation the question of administration and enforcement is important to ensure that the envisioned goals are met. In the case of green building, the questions are how to ensure that compliance is achieved, what time period to allow for demonstration of compliance, and how to address situations of non-compliance. It is important to note that there is a high level of ability to achieve certification once the commitment is made for the project. EarthCraft Virginia staff stated that of the 702 homes that have been registered with them (i.e., the builder/developer indicated that they would be seeking certification), 700 were able to complete the process and achieve certification. While this is very encouraging, it still seems prudent to have a process in place and to provide for circumstances if some problem were to occur.

Based on a review of other localities, staff recommends a process that seeks to keep compliance on track as the project moves along. Such a process could entail the following steps:

- Turn in proof of registration and checklist indicating items to be pursued during site or subdivision plan review.
- Update/verify the checklist during building permit review.
- For EarthCraft, the certification is issued once final tests are done prior to Certificate of Occupancy (CO), so proof of certification within one month of CO seems feasible.
- For LEED, the system requires commissioning which can mean extended timelines beyond CO, and certification processing time can take longer. In other localities that have been surveyed, staff has seen time periods of 6, 12 and 18 months post-CO for producing proof of certification. It may be reasonable to choose 12 months and evaluate after a year or two to see if this proves reasonable. It also seems prudent to include a provision for extending proof of certification past the specified time period, if there is good reason and with the approval of the Planning Director.
- For other programs as approved by Planning Director, a decision on the timeframe could be approved by the Planning Director prior to site or subdivision plan approval.

As noted above, it is unlikely that once registered, a project would “default” on its certification commitment within the specified time period; however, should this occur, an enforcement provision would need to be in place. Strategies used in other localities include the following:

- Holding the project at temporary CO and not issuing final CO until certification is complete (this could be used to address situations where the specified time period commitment was not yet met);
- Giving authority to the Planning Director to have the developer/builder pursue other/additional program credits instead of those it did not complete; or

- Requiring up-front contribution to a green building fund that is refunded or forfeited depending on the certification outcome (forfeited funds would be used for green building education or projects);
- Pursuing civil/criminal penalties (generally associated with instances where the green building language was a part of the local building code).

A combination of these approaches, such as the ability to require a developer to pursue alternate credits prior to actual forfeiture of a green building fund contribution, may be worthwhile. Planning staff has consulted with the Attorney’s Office, and the preliminary determination was that such a green building fund process could be legally feasible for the County.

Staff Recommendation

Staff recommends including certification process and timeframe information in the policy, as well as provisions for enforcement should it become necessary. Staff welcomes any input on the suggestions listed above.

E. Exemption of Certain Types of Development

There may be certain uses that could be exempt from the general policy. Similar to the County’s Sustainable Building Policy, examples could include:

- Buildings without any climate-control systems, due to the smaller impact that buildings would have.
- Businesses that are lessees in spaces of less than 8,000 square feet gross floor area. While there is a LEED system that is designed to apply to leased space (LEED for Commercial Interiors), it may be reasonable to set a separate minimum size for these situations.

One other item that could be considered is instances of proffered affordable housing. The concern might be raised that the additional up-front costs of green building would impact the developer’s ability to offer units at affordable prices. While acknowledging this concern, there have been a number of instances in the County where the two elements have been combined. On the private side, Health-E Communities has included green building elements in their proffers for a number of developments that included affordable units, including Michelle Point and Pocahontas Square. On the public side, units in the Office of Housing and Community Development’s Ironbound Square redevelopment project have been both affordable and EarthCraft-certified. From the point of view of long-term affordability for the homeowners, use of green building techniques can assist in keeping energy and other bills minimized.

Staff Recommendation

Staff recommends including certain limited exemptions in the policy, such as the two categories listed above. Staff does not recommend including affordable housing units in the exempt category.

F. Certification that Includes Specification of Certain Checklist Items

Some localities specify that as part of meeting the certification, one or more of the certification program’s elements must be selected for completion (as opposed to being an option). This essentially creates additional local-level prerequisite/required items on the checklist. Staff has discerned that this has been done in response to certain issues identified as critical at the local level. For example, in an area where landfill space has been identified as a specific concern, the locality may specify that construction waste management is a required element, whereas under the LEED program it is one of several options a developer could pick in the “Materials and Resources” category. Selection of certain local-level required elements could be a possibility for inclusion in a James City County green building policy.

Staff Recommendation

While this approach has the advantage of tailoring national or Virginia-wide system to suit specific local goals, staff does not recommend pursuing this approach at this time. Given that the policy would be a new instrument

in the County, the greatest degree of flexibility in meeting the certification target would likely be useful to developers and builders. Specifying certain local-level prerequisites could be added at a later date once additional experience has been gained by all parties, and if it appeared to be warranted.

G. Development that Falls Outside the Certification Triggers Discussed in Item C Above

One option that may be worth considering is to require meeting a lesser standard for development that falls outside the triggers that are selected for the expectation of certification. For example, it may be desirable to look for all new legislatively-approved homes to earn an Energy Star rating through the Energy Star program, which is a verified process that results in homes 20 – 30% more energy efficient than standard homes. There is also an EnergyStar energy performance target system that has been developed for certain commercial building types. Note that the EnergyStar program is solely related to energy conservation, and does not cover the other categories that the green building certification programs cover (sustainable sites, water conservation, materials and resources, indoor air quality, etc.). However, there could still be energy conservation benefits that would be beneficial to the community and potentially provide cost savings to building owners.

Staff Recommendation

Staff recommends investigating inclusion of an Energy Star expectation in the policy for development that falls outside the certification triggers discussed in item C above.

V. Conclusion

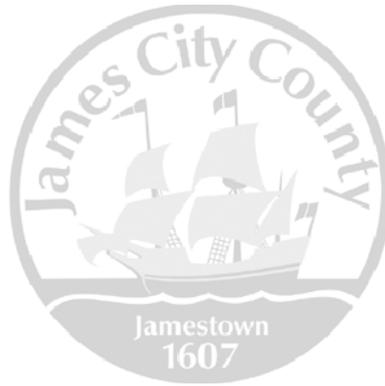
Based on the framework provided by the Roundtable report, staff’s research, and input provided at various stages of the update process, staff recommends development of a Policy that sets forth size/percent thresholds for certification and provides guidance on administration, enforcement, exemptions, and other relevant matters as discussed above. Staff also recommends investigating use of incentives in various sections of the ordinance (Cluster, Mixed Use, etc.) for achieving higher levels of certification and/or for development that would otherwise be below the Policy threshold. Staff requests Policy Committee feedback on the information and staff recommendations discussed above, particularly items C and D, which are two of the most central issues moving forward.

CONCUR:



Attachment

1. Green Building Design Roundtable Report



James City County Green Building Design Roundtable Report

June 7, 2010



Table of Contents

- **Introduction..... 4**
- **What is Green Building and Design..... 5**
- **Green Building in Virginia..... 9**
- **A Review of Other Local Governments..... 10**
- **Existing Policies and Activities in James City County..... 13**
- **Sub-Committee Recommendations..... 18**
- **Attachments**
 - Tax and Utility Incentives Available to Homeowners (Sept. 2009)
 - Tax and other Financial Incentives Available to Commercial Building Owners (Sept. 2009)
 - Green Building Design Incentives
 - Green Buildings in Alexandria Policy Recommendations, Appendix 5 *Regional Green Building Policies and Programs Overview: COG Members*
 - LEED Permit Submission Requirements for Site Plans in Arlington County
 - Falls Church City Green Home Award Program
 - Arlington County Summary of LEED Site Plan Ordinance Language
 - News Article on Fairfax County Green Building Policy Adoption

ACKNOWLEDGMENTS

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1. Introduction

Supervisor Jim Kennedy initiated the Green Building Roundtable Forum with the purpose of developing and promoting green building best practices to be used for public and private facilities in James City County. The kick-off meeting was held on March 2, 2009, and the Forum subsequently met on a monthly basis. The Forum members included a diverse group of individuals from the public and private sectors, and with a range of expertise in engineering, design, and construction, among others.

As discussed further in Section 2, green building and design covers a broad range of topics, from sustainable site planning, to water and energy use and conservation, to materials and resource conservation, to indoor air quality. In addition to the range of topics, the Forum recognized that different challenges and opportunities might apply in different contexts whether it was existing development versus new development, residential construction versus commercial construction, or public versus private facilities. Finally, the Forum recognized the need to help provide education and engage the community and private sector in discussion of green building and green design efforts. In recognition of the scope of the effort, the Forum created five sub-committees which met separately to discuss a set of specific topics. These sub-committees were as follows:

- **Finance:** This subcommittee looked at funding, incentives, legislation and economic development opportunities.
- **Housing:** This subcommittee looked at green building practices for existing homes, such as retrofitting and weatherizing.
- **Design and Construction:** This subcommittee focused on sustainable development practices for commercial, residential and mixed use applications including sustainable sites, water efficiency, energy and atmosphere, materials and resources, indoor environmental quality and certifications.
- **Communications:** This subcommittee considered ways to actively engage with the community and the private sector to promote green building practices.
- **Research and Development:** This subcommittee explored best practices for sustainability and coordinated speakers for the Forum.

The report that follows provides background and context for the efforts of the Forum (Sections 2, 3, 4 and 5), and presents the findings and recommendations of the Forum and its sub-committees in Section 6.

2. What is Green Building and Design?

Green building and design is the practice of creating and using healthier and more resource-efficient models of construction, renovation, operation, maintenance and demolition. Green building focuses on sustainable site planning, safeguarding water and water efficiency, energy efficiency and renewable energy, conservation of materials and resources, and indoor environmental quality. When viewed on a regional scale green building and design includes the interconnectivity of neighborhoods and communities, alternative transportation, and preservation of resource corridors.

The United States Department of Interior has forecast that 75% of all U.S. buildings will be built new or renovated by 2035. The Environmental Protection Agency has reported that building construction, maintenance, and disposal account for:

- 39 percent of total energy use
- 12 percent of the total water consumption
- 68 percent of total electricity consumption
- 38 percent of the carbon dioxide emissions
- 60 percent of total non-industrial waste

If the forecasted future development follows the model that has characterized much of the conventional United States urban development to date, then the County will face major costs in necessary services, infrastructure and city administration and to its quality of life. However, sustainable development which applies green building practice can reduce or eliminate the negative impact of buildings on the environment while promoting enhanced building performance and occupant health, thereby creating a civic asset rather than an on-going liability.

Green building practices provide both site specific and County-wide benefits through savings in energy, resource use, and through the reduction of outdoor and indoor pollutants. The many new green building projects in the U.S. in recent years has begun to provide significant data about the benefits of green buildings. In general, green buildings:

- **Consume** 30% to 50% less energy;
- **Produce** 35% less in carbon dioxide emissions;
- **Consume** 40% less water;
- **Produce** 70% less solid waste; and
- **Improve** public health and building occupant productivity.

Green buildings create economic efficiencies for building owners and operators, increase real estate value, and reduce the tax burden by using existing urban infrastructure more efficiently and through load reduction, and reduce otherwise urgent and expensive infrastructure upgrading.

A General Services Administration (GSA) survey of 12 of its green buildings found the following specific benefits:

- 26% less energy usage than national average (65 kBtu/sf/yr vs. 88 kBtu/sf/yr);
- 13% lower aggregate maintenance costs than the national average (\$2.88/sf vs. \$3.30/sf);
- 27% higher occupant satisfaction than the national average;
- 33% fewer carbon emissions than the national average (19 lbs/sf/yr vs. 29 lbs/sf/yr)
- Two Leadership in Energy Efficient Design (LEED) Gold buildings in the study consumed 54% less water than the national average.

It is important to acknowledge that some green building features and systems can result in added initial design and construction costs. The *Costs and Financial Benefits of Green Building* (Katz 2003) study found a 0.66% cost premium for LEED Certified buildings, a 2.11% for LEED Silver buildings, a 1.82% for LEED Gold buildings, and a 6.5% premium for LEED Platinum buildings. The overall average cost increase was 1.84%. It should be noted, however, that each project has a unique set of factors including size, location, certification level, project credits, timing, architecture and a host of other items that will determine specific project cost. Trends show that costs for green buildings are decreasing as the market continues to grow and mature. It is expected that these costs will decrease even further as designers, builders, subcontractors and manufacturers gain experience in an expanding market. Rather than seeing green building features as an added cost element, green features should be recognized as a way to increase the building's value for owners and developers by lowering operating costs and providing a more desirable environment for occupants. As one illustration of this point, the *Costs and Financial Benefits* study found that an upfront investment of less than 2 percent of construction costs yields life cycle savings of over 10 times the initial investment.

Over the years, a number of certification systems have developed that will provide third party verification that green building standards have been achieved, not only for new construction, but also to projects like renovations and to operations and maintenance activities. Most prominent among these certification systems is LEED, which was developed by the U.S. Green Building Council. Similar to other certification programs, the LEED program consists of a checklist of items in categories of sustainable sites, water efficiency, energy and atmosphere, materials and resources, indoor environmental quality, locations and linkages, awareness and education, innovation in design, and regional priority items. Developers can achieve points in the different categories and as a result, there is flexibility in how any given project achieves the certification points needed. The LEED system also allows flexibility in the desired level of certification to be reached: the program offers Certified, Silver, Gold and Platinum levels, reflecting an increasing level of points reached. It is also important to note that systems often offer certifications tailored to the type of project being constructed. For example, there are specialized LEED rating systems for: New Construction and Major Renovation; Existing Buildings: Operations and Maintenance; Commercial Interiors; Core & Shell; Schools; Retail; Healthcare; Homes; and Neighborhood Development. The LEED for Homes system covers single family homes and low rise multifamily development, however, LEED is currently piloting a LEED for Mid-Rise multifamily (4-6 stories) system.

There are a number of certification and/or recognition systems other than LEED that have been developed, some of which are focused on specific types of development such as residential construction, or on specific aspects of green building such as energy efficiency. The following are very brief summaries of some examples:

- The EarthCraft House Program system provides certification of single and multi-family housing, for both new construction and renovation activities.
- The Collaborative for High Performance Schools is a nonprofit organization that has developed a best practices manual and a building rating and recognition program for schools.
- Energy Star is a program administered by the U.S. Environmental Protection Agency that awards ENERGY STAR ratings to buildings, manufacturing plants, and homes that meet energy performance standards after verification by a nationally trained energy rater.
- Green Globes is a program owned and operated in the United States by the Green Building Initiative (GBI). The program is designed for use on building projects of any size, and is suitable for large and small buildings including offices, multi-family structures and institutional buildings such as schools, universities and libraries. It also can be applied to new construction, retrofits and management and operations of existing buildings. In 2005, GBI became the first green building organization to be accredited as a standards developer by the American National Standards Institute (ANSI), and began the process of establishing Green Globes as an official ANSI standard. The GBI ANSI technical committee was formed in early 2006. Green Globes certification is achieved by undergoing third-party verification by trained regional verifiers.
- National Association of Home Builders (NAHB) developed the Model Green Homebuilding Guidelines, a set of guidelines for residential construction that includes guidance and a point scoring system. In 2007 the National Association of Home Builders (NAHB) and the International Code Council (ICC) partnered to form to establish a standard definition of what is meant by “Green Building.” The standard was developed in compliance with the requirements of the American National Standards Institute (ANSI). The resulting ANSI approved ICC-700-2008 National Green Building Standard defines green building for single and multifamily homes, residential remodeling projects and site development projects. Compared to the NABH Guidelines, the Standard includes more mandatory items and suggests that higher thresholds be met in several categories. A new threshold – “Emerald” - was added to denote the highest achievement in residential green construction. The NABH program includes the option of National Green Building Certification based on the Guidelines and the ICC Standard.
- Laboratories for the 21st Century Environmental Performance Criteria (Labs 21 EPC). This is a program dedicated to improving the environmental performance of U.S. laboratories.
- Sustainable Sites Initiative (SSI) developed by American Association of Landscape Architects (ASLA). SSI is an interdisciplinary effort to create voluntary national guidelines and performance benchmarks for sustainable land design, construction and maintenance practices.

In addition to the certification program examples described above, some states and localities have developed their own sets of green building standards.

A final topic to note in relation to green building and design is building codes. In Virginia, the Virginia Uniform Statewide Building Code (USBC) contains the building regulations that must be complied with when constructing a new building, structure, or an addition to an existing building. They must also be used when maintaining or repairing an existing building, or renovating or changing the use of a building or structure. The USBC is based on model codes developed by the International Code Council (ICC). Over the years, the ICC has developed the International Energy Conservation Code, and has recently launched an initiative to develop an International Green Construction Code, a model code focused on new and existing commercial buildings. The evolution of the building codes, including the USBC, will include increased energy efficiency in the future.

3. Green Building in Virginia

The Commonwealth helps set the green building agenda by its own actions, through funding choices, and, because Virginia is a Dillon Rule state, through its legislative framework. On the first front, Governor Kaine set the state government on the road to greener building. In June 2009, the Governor Kaine signed Executive Order 82, “Greening of State Government” as part of the greater RENEW VIRGINIA Initiative. Building upon Executive Order 48 “Energy Efficiency in State Government” which was signed in 2007, Executive Order 82 states that all executive branch agencies and institutions entering the design phase for construction of a new building greater than 5,000 gross square feet in size, or renovating such a building where the cost of renovation exceeds 50 percent of the value of the building, shall meet Department of General Services (DGS), Division of Engineering and Buildings “Virginia Energy Conservation and Environmental Standards” for energy performance and water conservation. In addition, all such buildings shall conform to LEED silver or Green Globes two-globe standards, unless an exemption from such standards is granted by the Director of the DGS upon a written finding of special circumstances that make construction to the standards impracticable.

A second way that the Commonwealth sets the green building agenda is through its legislative framework. From a green building standpoint, the abilities given to localities by the Commonwealth to regulate or create green building programs is an important consideration. The Commonwealth does not give localities the authority to create or amend the Virginia Uniform Statewide Building Code, or put in place regulations that have the effect of doing so, to suit a desired local objective. There is some latitude for localities to create green building programs via mechanisms included in the Zoning Ordinance or by Board adopted policies related to the Zoning Ordinance. Under the Commonwealth’s legislative framework, localities may use certain energy efficiency or green building incentives. For example, one recent legislative amendment allows localities to consider energy efficient buildings as a separate class of real property for the purposes of local taxation, while another amendment allows localities to grant incentives or provide regulatory flexibility to encourage the use of green roofs in the construction, repair or remodeling of residential and commercial buildings.

Finally, a third way that the Commonwealth plays an important role is by providing funding, or disbursing federal funding, for certain green building-related programs, such as the existing Weatherization Assistance Program or funds available through the American Recovery and Reinvestment Act of 2009 (see the recommendations of the Finance sub-committee in Section 6 below for more information).

4. A Review of Other Local Governments

A. Trends toward Green Building in the U.S.

The movement toward green building is in evidence from stories in the news across the United States. The following are three examples of localities that are pursuing green building ordinances or policies that illustrate the trend, and which were looked at by the Forum members. These examples help demonstrate the range of different approaches that have been taken by different localities, which is discussed in greater detail in Section B below.

- *Jersey City, New Jersey.* Pursuing local ordinances to be more environmentally conscious by purchasing hybrid vehicles, “greener” supplies and materials, and making renovations and new construction conform to higher standards. In addition, the locality is considering ordinances to provide a cash incentive for developers who meet LEED certification, with more money given for higher levels of certification.
- *Frederick County, Maryland.* Launched an environmental sustainability section on the Frederick County Government website. The section is intended to “serve as a gateway to county programs and provide a consolidated picture of the programs and activities dedicated to sustainability in county government and in the community.” It will also “encourage sustainable living and engage the public in long-term efforts that support a healthy environment, vibrant economy and livable community for all Frederick County residents.”
- *Southampton, New York.* The Village Board is considering adoption of a hybrid of the U.S. Green Building Council's Leadership in Energy and Environmental Design, or LEED, and the International Code Council's National Green Building Standard, known as ICC 700.

B. Virginia Localities

As illustrated by the examples in Section A, there are a number of different ways that localities can encourage the use of green building techniques. Perhaps most useful to examine are the steps that other Virginia localities have taken, since these localities are subject to the same state legislative framework outlined in Section 3.

On the public facilities side, some Virginia localities have developed a green building policy that applies to publicly funded and built facilities, such as schools. These policies sometimes vary in the particulars, such as specifying a certain minimum square footage threshold, a type of green building certification program (LEED, Green Globes, etc.), a certain level of certification (LEED silver, LEED gold, etc.), and whether the policy covers just new construction or is applicable to renovation/remodel projects or existing building operations and maintenance. The City of Richmond recently passed a resolution to require achieving LEED silver certification for City-owned projects. Other localities that have adopted green building policies include: Fairfax County, City of Falls Church, City of Alexandria, City of Leesburg, Loudoun County, Prince William County, Spotsylvania County, and City of Charlottesville/Albemarle County.

On the private development side, a number of initiatives have been undertaken by Virginia localities. These initiatives include expectations about achieving green building goals for site development plans, and use of mechanisms such as green building funds and density incentives. More detail is provided in the examples from the City of Alexandria and Arlington County below.

1. **City of Alexandria.** At its April 18, 2009 public hearing, the City of Alexandria City Council unanimously voted to adopt a proposed Green Building Policy. Per this Policy (not ordinance), the City expects that all new development requiring a Development Site Plan or Development Special Use Permit will achieve LEED Silver, or an equivalent rating, for non-residential development and LEED Certified, or an equivalent rating, for residential development. On their website, the City recognizes that a commitment to green buildings does not stop with the adoption of the Policy and states that a second phase is anticipated. This second phase will include the identification of methods to encourage existing buildings to incorporate green improvements, such as through improved outreach and incentives.
2. **Arlington County.** Arlington County uses a number of measures to encourage green building. The first measure is to encourage site plan projects to incorporate green building components and processes. Site plan projects are development projects seeking special exception to the Zoning Ordinance, exceptions which allow more flexibility in building form, use, and density than is normally allowed in the specific zoning district. The goal of this program is to reduce the environmental impacts of development. This program includes a set of six requirements:
 - **LEED™ Accredited Professional.** The program requires that all site plan projects have a LEED™ Accredited Professional on the development and construction team.
 - **LEED™ Scorecard.** All site plan applications in Arlington County must include the LEED™ scorecard with an explanation of all the LEED prerequisites each LEED™ credit, describing how they intend to achieve the credit, or why they are unable to incorporate the component into the project.
 - **LEED™ Tracking.** During project negotiation, a final number of LEED™ credits are identified and the commitment to incorporate them into the project is formalized in a site plan condition. This condition requires that reports be submitted with specific building permit applications. These reports track the progress of LEED™ prerequisites and components throughout the demolition and construction process. Permits will not be issued if LEED™ reports are incomplete.
 - **Construction Waste Management.** The developer agrees to provide a plan for diverting from landfill disposal the demolition, construction, and land clearing debris generated by the project. The plan should outline recycling and/or reuse of waste generated during demolition and/or construction. The plan should outline specific waste streams and identify the means by which waste will be managed (reused, reprocessed on site, removed by licensed haulers for reuse/recycling, disposal, etc.).

- **Energy Star Appliances for Multi-family Residential Development.** In order to reduce energy used by standard appliances and fixtures in high-rise residential projects, a set of standard language on use of EPA Energy Star appliances, fixtures and building components is included as a green building site plan condition (modifications may be made on a case-by-case basis).
- **Standard Site Plan Language.** The county has developed standard site plan language covering green building and LEED issues.

A second measure used by Arlington is a Green Building Fund (the “Fund”). The County established a policy of having site plan developers who do not commit to achieving a LEED rating from the U.S. Green Building Council (USGBC) contribute to the Fund. The Fund is used to provide education and outreach to developers and the community on green building issues. If a project receives LEED certification from the USGBC, the Fund contribution is refunded when final LEED certification is received. A third measure used by Arlington is a Green Building Incentive Program (the “Program”), which allows a private developer to apply for additional density if the project achieves a LEED award from the USGBC. The Program applies to all types of building projects (office, high rise residential, etc.) achieving any one of the four LEED awards.

Finally, other Virginia steps have been taken by Virginia localities to encourage green building. Examples include education and outreach (via websites like the City of Alexandria), and the provision of incentives (such as the adoption of a separate class of real property for energy efficient buildings in Roanoke).

5. Existing Policies and Activities in James City County

A. Public Facility Construction, Operations and Maintenance

James City County has already made progress on addressing environmental and energy stewardship for public facility construction, operations and maintenance. In January 2004, the Board of Supervisors passed a resolution on the Reduction of Transportation Petroleum Use. The resolution set a goal of reducing the County's petroleum usage by 20 percent by 2010. As result the County has been recognized by the National Alternative Fuel by earning the Leadership and Pioneer Efforts in Alternative Fuels Award from Virginia Clean Cities. In September 2007 the Board unanimously adopted the "U.S. Cool Counties Climate Stabilization Declaration" and was recognized by the Virginia Municipal League's (VML) "Green Government" Certification. In 2008, the County received third place in VML's Green Government Challenge. The County has also established a Green Team that, among other efforts, works to improve of efficiency and sustainability of County facilities and operations.

Also in the works through the 2009 Comprehensive Plan are goals for the County's public facilities. The Comprehensive Plan includes the following information under "Design of New Public Facilities" heading in the Public Facilities section of the Plan: "The existing public facilities owned by James City County are a source of pride for citizens and county staff members alike. New facilities should be held to high standards of cost-effectiveness, functional and operational efficiency, energy efficiency, green building design, durability, and, where applicable, aesthetic appeal, so that they complement existing facilities and serve the long-term needs of the County." In the Goals, Strategies and Actions portion of the Public Facilities section, the draft Plan includes the following strategy and actions:

1.4. Design, construct, and operate public facilities in a sustainable manner.

- 1.4.1. Utilize energy efficient heating, cooling, ventilation, lighting, (and similar) systems and designs for newly constructed facilities, and where feasible, for renovations of existing County facilities. Innovation and technology (such as that found in geothermal heating and cooling systems, green roofs, and solar panels) should similarly be employed where feasible, and where appropriate levels of long-term sustainability, cost savings, efficiency, and durability can be clearly expected or demonstrated.
- 1.4.2. Build all new County Buildings and facilities to meet or exceed Silver LEED (Leadership in Energy and Environmental Design) (or industry similar or successor) standard wherever applicable. The Silver LEED (or industry similar or successor) standard should also be sought for renovation projects whenever feasible. Adopt a specific County policy governing the application of sustainable building standards to County built and occupied facilities and buildings.

1.4.3. Utilize Low-Impact Development (LID) designs for newly constructed facilities, and where practical, for renovations of existing County facilities.

Steps have been taken with recent new public facilities/project construction to meet green building standards, such as the inclusion of geothermal systems for the new 9th elementary and 4th middle school designs, and the EarthCraft Home certification of houses in OHCD's Ironbound Square project. In addition, County staff has begun working to achieve LEED Silver certification for the new Police Department and the Warhill Gymnasium currently in the design phase. Most recently, a County policy as mentioned in 1.4.2 above has been developed and was adopted by the Board of Supervisors on March 23, 2010. The policy addresses both the construction and renovation of buildings and the design of the site. In general, the building portion sets a goal of Silver Certification under the Leadership in Energy and Environmental Design (LEED) rating system promulgated by the United States Green Building Council (USGBC). For residential structures, the policy also allows use of the EarthCraft Virginia system which has been used by the County and is well known in Virginia. It is also important to note that the policy allows for considerable discretion by the County Administrator to allow variations to the policy where needed for other County purposes, and it is shown that alternate measures would improve the overall environmental performance of the building.

B. Zoning Ordinance

As described in Section 4 above, many localities have developed green building and design policies and regulations not just for public facilities, but for private development within their borders as well. James City County currently does not have a comprehensive green building policy or regulation for private development, but, as described below, some steps have been taken to encourage green building, or certain aspects of it. The County's zoning ordinance currently contains one provision to encourage green building. In the Cluster overlay section of the ordinance, applicants can get a density bonus of 0.5 dwelling units per acre for "superior layout and quality design which incorporates environmentally sensitive natural design features such as preservation of scenic vistas, preservation of natural areas as suggested by the Natural Areas Inventory, protection of wildlife habitat corridors, the creation of buffer areas around RMA wetlands, and sustainable building practices as referenced in *The Sustainable Building Sourcebook* from the City of Austin's Green Building Program, or the *Sustainable Building Technical Manual* by the United States Department of Energy. (This section of the ordinance was last amended in 1999.)

The Villages at Whitehall development is an example of a development that used this provision to help them achieve their desired residential density. This development committed in a proffer to incorporating sustainable building practices in their design guidelines. Staff and the Planning Commission's Development Review Committee (DRC) reviewed the sustainable building language when the design guideline document was submitted.

C. Legislative Cases (Rezoning and Special Use Permits)

There have been a number of other cases in recent years that have committed via proffers or Special Use Permit (SUP) conditions to green building, not in order to achieve the Cluster density bonus available in the ordinance, as described above, but to help meet the expectations of staff and elected and appointed officials regarding the environmental protection development standards of the Comprehensive Plan. Two projects have committed to meeting LEED standards: the Stonehouse developers committed to a LEED certified 18,000 square foot Amenity Center (not yet designed or constructed), and the Prime Outlets expansion, which was approved by the Board of Supervisors with a green building SUP condition, recently achieved LEED Certified status (currently the only LEED certified structure in James City County).

Other developers have committed to certain aspects of green building and design. A prominent example is the Healthy-E-Communities company which has developed a number of affordable and mixed-cost residential projects in the County. As an example, the developer included in his proffer set the following two proffers for the Chestnut Grove rezoning:

- a. Energy Efficient Homes. All the townhouses shall be certified by a HERS rater to meet or exceed the Energy Star Certification. Each ENERGY STAR qualified new home must achieve a HERS score of at least 86. A copy of the HERS Energy Star Certification for each unit, once available, shall be provided to the Director of Planning.
- b. Green Building/Sustainable Materials. The developer shall incorporate the use of “green” building practices and materials in each unit in the development as follows: paints low in volatile organic compounds (“VOC”), carpets certified by the Carpet and Rug Institute to be free of formaldehyde, low VOC sub-flooring, built-in dehumidifiers, transfer grills in each bedroom for balanced heating and cooling, value engineered framing, engineered lumber, and cellulose insulation. These items shall be shown on the architectural drawings for each unit, and shall be approved as part of the building permit review and inspection process.

While green building conditions or proffers such as those described above have been developed on a case by case basis, certain green building and design-related items have been consistently applied to legislative cases due to adopted Board policies or ordinances. One of these is water conservation measures that apply to water efficient landscaping, irrigation systems, and indoor appliances. Another of these is the use of stormwater management criteria associated with adopted watershed master plans. An important consideration for County staff with regard to conditions and proffers is the ability of staff to verify and enforce compliance with the item in question; depending on the wording, green building related proffers can present challenges in terms of staff expertise and resources. As a final note, the 2009 Comprehensive Plan includes commitment to LEED (or similar or successor programs) among the examples of enhanced environmental protection in the Land Use Section’s Residential Development Standards, and also includes as an Action that the County will conduct a sustainability audit of ordinances and policies as a lead-in to a comprehensive update to the Zoning Ordinance.

D. Sustainable Site Design

The County Board of Supervisors adopted priorities from the Powhatan and Yarmouth Creek watershed management plans in 2002 and 2003, respectively. These adopted priorities as well as the Chesapeake Bay Ordinance have driven sustainable site design initiatives like Better Site Design (BSD) and the use of special stormwater criteria (SSC) and LID stormwater management practices in the County. In 2004, the County received a grant from the National Fish and Wildlife Foundation to install an LID known as a rain garden to handle stormwater runoff at the Courthouse (Courthouse Bioretention Demonstration Project). At the new Warhill High School, all irrigation water is obtained from the stormwater basin, reducing the impact on groundwater.

In 2003, the County initiated a BSD Roundtable project based on a series of model development principles. The model development principles are sustainable site and development practices developed by the Center for Watershed Protection (CWP) and Builders for the Bay. Participants in the Roundtable project included: CWP, JCC, Builders for the Bay, Peninsula Housing and Builders Associations, and other stakeholders in JCC. The purpose of this initiative was to review existing development codes, identify barriers to established national model development principles, foster more environmentally sensitive site designs within the County, and promote incentives, flexibility, and guidance for developers to implement BSD on their development projects. Twenty-four model development principles specific to JCC were developed in the general categories of lot design and development, natural areas/stormwater management, and residential streets and parking lot design. In 2007, a BSD Implementation Committee recommended strategies to incorporate the 24 model development principles into county ordinances and policies. The recommendations are still in the process of being implemented.

E. Housing and Community Development Activities

On another front, James City County currently offers some programs that help meet green building and design related goals (weatherization, etc.) for existing buildings. These programs are administered through the County's Office of Housing and Community Development and include Indoor Plumbing/Housing Rehabilitation, Community Development Block Grants, and Emergency Home Repair. In 2007 the Office of Housing and Community obtained a grant from the Enterprise Green Communities and conducted a Green Building and Sustainable Design for Affordable Housing Workshop. This workshop included a presentation by EarthCraft of Virginia and was attended by 33 participants including representatives of nine local builders. Following this workshop OHCD issued a request for proposals for builders to construct single family homes in the Ironbound Square Redevelopment area. The RFP specified these single family homes were required to be built to EarthCraft certification standards. Since then eight EarthCraft certified homes have been sold in Ironbound Square and the number of EarthCraft certified local builders has increased significantly.

F. Education and Outreach

Finally, on the education and outreach front, General Services staff is currently working on an environmental sustainability section to add to the County's web site. These pages are in draft form and are currently under review by the County's Green Team. These pages will be similar to the Frederick County, MD site in that they will provide a consolidated picture of the programs and activities dedicated to sustainability in county government and in the community.

6. Sub-Committee Recommendations

A. Finance Committee

I. Goals

To obtain County-wide reductions in resource use by stimulating improvements to existing residential, institutional, and commercial buildings, and to appropriately “raise the bar” for new construction to achieve a higher level of performance and resource efficiency.

It is the intent of these recommendations to foster these changes in such a way as to obtain the maximum impact/maximum improvements in performance at the least cost and to stimulate a widespread movement to improve the performance of buildings in the County. We affirm that these improvements have the potential to improve quality of life for County residents in their homes and places of work, while reducing costs, stimulating local business, and increasing local tax revenues.

II. The Nature and Types of Incentives

What motivates us to act the way that we do, or to change our behavior patterns? It could be argued that our lives are largely energized by various kinds of incentives. These could be categorized into two basic types of incentives, commonly known as the “carrot” and the “stick”. Positive (or carrot) incentives motivate us by reward, and negative (or stick) incentives motivate us by the desire to avoid their negative effects. In this context, things like tax credits, savings on our energy bills, or availability of grants or stimulus funds are positive financial incentives that help motivate us to commit to retrofit our buildings for energy conservation. Non-financial positive incentives might include recognition for actions taken, or the good feeling that comes from taking action to reduce our environmental impact. Negative financial incentives might include the monthly impact of high energy costs, while other negative incentives that might motivate us to action might include everything from disapproval from friends or family to having to comply with tighter regulations governing our energy or water use. We all know how our driving habits by the negative incentive of skyrocketing gas prices in 2008.

Another type of positive incentive that can be quite helpful in motivating action toward a desired goal is information. Often people have a desire to make changes, but just don’t know how to go about making those changes, or evaluating whether it makes sense for them to do so. Most people may not have enough time or the motivation to do the research to determine whether it makes sense (for example) for them to change the light bulbs in their house to fluorescent bulbs, or to spend the money required to weatherize their house. It is therefore helpful if impartial information can be provided that both helps people decide whether these improvements make sense, and if so, who can help them to make these improvements, and how they can pay for them. It is therefore helpful not only to educate, but to provide simple steps that can be taken for people to be able to make these changes.

III. Incentives

We have attached to this report a summary of positive financial incentives that are available for homeowners and for commercial building owners (**Attachments #1 and #2**). This is not an exhaustive list, but a starting point that may highlight some resources that people may not have been aware of. We believe that it still remains for the County and for citizens of the County to take things to the next step – using these incentives and other creative strategies to demonstrate to others that it is possible for them to afford to renovate their homes and businesses to improve energy and resource performance.

With the development of a “toolkit” of financial incentives, the intent is to provide practical pathways for people to use to make changes to their own homes and businesses by:

1. Demonstration – Fostering pilot projects that will demonstrate what can be done, and how it was accomplished. This could begin with an energy audit, and recommendations on how to make improvements, and then be followed up with obtaining financing to make the changes. Once the improvements are complete, the energy rater would follow up to quantify the level of performance improvement, and to demonstrate the energy/water savings.
2. Resources – Recruiting partners and resources that can help people accomplish needed changes. These resources will range from energy raters/auditors to banks willing to provide financing, to weatherization contractors, to working with the state to obtain block grant or weatherization funding from the Federal Government.
3. Big Picture changes – Working at the larger scale to help bring about policy changes that can “change the game” and speed the scope of these conservation improvements. This could include getting the Mazria 14x Stimulus Plan (see <http://www.icleiusa.org/action-center/financing-staffing/14x-stimulus-a-plan-for-state-and-local-governments>) implemented locally to provide funds to “buy down” mortgage interest rates for those wanting to do energy improvements. This could also include working at the state level to foster a policy at Dominion Power of investing in conservation measures vs. building new power plants. It could also include advocating for state incentives to foster adoption of solar, wind, and geothermal technologies, including use of net metering. Another possible program that could bring benefit to our citizens is the citizenre REnU (renu.citizenre.com) solarPV program which would install solarPV systems on people’s houses.
4. Prioritizing Buildings for Renovation – Survey and identify buildings and citizens that would most benefit from improvements that would reduce their energy and water costs. Take the initiative to facilitate improvements with citizens who own these facilities and would be responsible partners.
5. Education – Communicate with and help motivate our citizens to pursue making needed changes to their homes and places of business. Tell the stories of success. Help people understand the tools/resources that are available to them.

See the attached summaries of incentives available to homeowners and businesses (**Attachments #1 and #2**). The next section is the Finance Committee's initial recommendations for County action to address/impact the goals stated above.

IV. Recommendations

Since our buildings consume 70% of the nation's electricity, use 12% of our water, and generate 30% of the nation's greenhouse gas emissions, it only makes sense to focus our attention on improving the performance of these buildings, if we want to have an impact upon the problem. Since existing laws and laws that will soon be enacted are addressing the energy and resource use of future construction, and since the biggest "offenders" in the three categories mentioned above are the older buildings in our community, it makes sense that we focus our efforts on finding ways to impact the efficiency of these existing structures. For this reason, the Finance Committee has developed a series of initial recommendations to pursue in attempting to impact the problem. We recommend the following:

1. Use the completed ICLEI CACP greenhouse gas emissions baseline information to compare to other communities, and set goals for improving our performance.
2. Develop partnerships with Virginia Power and Virginia Natural Gas to better understand utility usage patterns and where improvements could have the biggest impact. Survey the properties in our community to supplement findings from the utility partners.
3. Establish specific goals to impact the energy and resource use and the greenhouse gas emissions of our community, and develop strategies to implement to achieve the goals.
4. Consider creating a County position to facilitate the achievement of these goals, and to begin to seek funding and partnerships to implement them. Consider also having an appropriate citizen advisory/working board to help and work with this County coordinator
5. Develop a partnership with William and Mary to take advantage of the benefit that this could bring to both the County and the College.
6. Partner with the City of Williamsburg to develop and implement these initiatives.
7. Develop a "toolkit" of evaluation, financial, and rehabilitation strategies to use in rehabilitation of both residential and commercial properties for improved performance.
8. Identify local expertise that can be involved in developing and implementing solutions. Look for ways to develop additional local partners in order to stimulate local businesses, and develop local expertise. Work with TNCC for "green jobs" training where appropriate.
9. Develop partnerships with local financial institutions and corporate citizens to assist in implementing rehabilitation strategies.
10. Seek stimulus and other grant funding to help in implementing the rehabilitation goals of the Community.
11. Consider partnering with Energy Star to sponsor a Home Performance with Energy Star program, which would train local contractors to provide comprehensive energy audits and then implement energy improvements under the oversight of the program. (This is the program that is currently being implemented in Charlottesville, and has the potential to create "market transformation" within a community, and radically impact county energy use).
12. Develop relationships with other communities that are attempting to similarly impact their resource use (such as Charlottesville) to share lessons learned.

13. As quickly as possible, implement pilot rehabilitation projects that can become “poster children” for the impact that these rehabilitations can have. Carefully document before and after performance, and use these projects to help promote ongoing efforts.
14. Develop educational strategies to help people and businesses understand the nature of the problem, how it impacts them, and what they can do about it.
15. Develop a user-friendly website that becomes a resource to educate and inform our citizens and to tell the stories of what is being done to impact these problems. The website should also be a resource center for tools and strategies that people can use for themselves, along with appropriate links to other online resources that they can access for more information.
16. Develop partnerships with the Community Action Agency, the Redevelopment and Housing Authority, JCC Housing and Community Development, Housing Partnerships, and other local “players” to coordinate rehabilitation efforts, so as to have the maximum impact and avoid redundancy.
17. On a regular basis, reevaluate how we are doing against the indicators that were a part of the original baseline energy, resource and emissions study.

V. Funding Sought

There are quite a number of funding opportunities available at the current time, including several possible streams of funding that stem from the ARRA (American Recovery and Reinvestment Act). The Finance Committee has made an application to EPA’s Climate Showcase Communities for funding to renovate houses for energy efficiency in concert with a project that JCC’s Housing and Community Development is undertaking to purchase and renovate foreclosed properties in the County.

VI. Conclusion

Due to the nature of the resource challenges that face us as a nation in the long term, it is important that we take immediate steps to help our citizens transform the homes and businesses in which we spend the majority of our lives. When completed, the impact of these energy efficiency retrofits will be immediate – not only improving quality of life, but putting money back in the pockets of our citizens, while stimulating our local economy with the jobs that this work will create. There is no reason why James City County and the City of Williamsburg cannot take a place of leadership in the nationwide movement to “green” the buildings in which we live and work every day. There has never been a better time to commit to make an impact upon this problem, when the tools to make our efforts successful lie right around us and wait for us to take the initiative. It only remains for us to have the courage to make the commitment to really pursue them.

B. Housing Committee

The Housing Subcommittee of the Green Building Round Table reviewed the need and potential for incorporating green building improvements to existing residential properties in James City County. The Committee concluded that, although the County’s housing stock is relatively new, maintenance and renovation of existing homes provide significant potential for improving the resource efficiency of residential property in the County. Potential actions to encourage “green” improvements to existing residential property include:

- Continue the existing practice of including energy audits and improvements in housing rehabilitation projects administered by the County's Office of Housing and Community Development. Seek to incorporate, where economically feasible, the comprehensive EarthCraft Single Renovation Program designed to achieve a 30% or greater increase in energy efficiency and resource efficient practices in major housing rehabilitation projects administered by the County's Office of Housing and Community Development.
- Assist the Williamsburg-James City County Community Action Agency, the designated administrator of the federally funded Weatherization Program, to fully utilize significantly increased funding provided by the ARRA economic stimulus program to weatherize and increase energy efficiency of existing homes occupied by lower income households within James City County.
- Seek grant funding available from the ARRA economic stimulus program and other government, private, and non-profit sources to develop education, outreach, and financial incentive programs to promote energy audits, analysis, and green energy efficiency home improvements for a broad range of County homeowners.
- Publicize, through providing information to the media, the beneficial results of green energy efficient housing weatherization, rehabilitation, and renovation projects undertaken in the County.

C. Design and Construction Committee

I. Design and Construction Committee Objective

The objective of the *Design and Construction subcommittee* was to assess and make recommendations regarding the following sustainable development practices: sustainable sites, water efficiency, energy and atmosphere, materials and resources, indoor environmental quality and certifications (rating systems).

II. Background

Recommendations are based on discussions among group members, presentations to the Green Building Roundtable committee, review of existing rating systems, and a review of green building studies, programs and policies of other Virginia jurisdictions. These jurisdictions include: Arlington County, the City of Alexandria, Fairfax County, the City of Falls Church, the City of Leesburg, Loudoun County, Prince William County, Spotsylvania County, the City of Charlottesville, and Albemarle County (see **Attachments #5 and #7** for additional information on Arlington County). One valuable resource prepared by the City of Alexandria (**Attachment #4**) summarizes the green building policies and programs adopted by jurisdictions within the greater Washington DC metropolitan area.

In the process of formulating recommendations, the subcommittee made the following qualifying decisions:

1. The JCC green policy program should recognize limitations associated with the Dillon Rule therefore; policy objectives are best achieved through the use of

incentives, education, and positive examples as exhibited by the County with public project development (see **Attachment #3** for a list of possible incentives).

2. JCC should utilize existing green building rating systems as benchmarks and recommended frameworks for design, rather than designing its own rating system
3. The green building efforts of other Virginia jurisdictions should be referenced and modified to be County specific rather than repeated.

III. Assessment of Green Building Program Elements

The following is a list of typical elements and/or characteristics of sustainable policy programs of other Virginia jurisdictions:

- A Mission Statement of Green Building Benefits
- Policy statement with county-specific Environmental/Green Priorities
- Select and establish an existing green building rating system as a benchmark – but allow flexibility to use an equivalent system
- Distinguish between Public vs. Private policies
- Assume that Public facilities should set examples and educate (see **Attachment #8** as an example)
- Provide development standards, guidelines, checklists for Public Facilities
 - New construction (commercial and residential)
 - SUPs and Rezoning,
 - By-right (encourage and incentivize)
 - Sustainable renovations and site retrofits
 - Neighborhood Development
- Provide Incentives, Education, and Outreach for stakeholders (see **Attachment #6** as an example)
- Require Third Party Certification
- Allow for Flexibility – case by case determination for unique circumstances
- Plan a Phased Approach
- Encourage Innovation
- Monitor Program Progress and Re-evaluate for improvements

Third-party green building certification and rating systems currently being implemented within this area and/or other jurisdictions in Virginia include LEED, Energy Star, Green Globe, EarthCraft, and NAHB Model Green Home Building Guidelines. These rating systems are described in Section 2 of this document and typically applied in the following areas:

- **PUBLIC FACILITIES** – LEED, Green Globe, Energy Star
- **RESIDENTIAL** – LEED, EarthCraft, Energy Star, NAHB Model Green Home Building Guidelines
- **COMMERCIAL** – LEED, Energy Star
- **MIXED USE** – LEED ND

The Energy Star system is being utilized in several jurisdictions to implement county-wide or city-wide energy efficient building renovation programs. This system seems to be a cost-effective and well-developed system with third party energy audits for building renovations; however, site elements such as landscaping, LID features, etc. are not addressed.

LEED is comprised of several rating systems including: New Construction, Existing Buildings: Operation and Maintenance, Commercial Interiors, Core & Shell, Schools, Retail, Healthcare, Homes, and Neighborhood Development. The EarthCraft rating system is specifically designed for residential construction of neighborhood developments, individual single-family homes, and multifamily units 3 stories or less. In comparison to LEED for homes, EarthCraft tends to be more cost effective. Of the rating systems reviewed, LEED and EarthCraft have the following key features:

- The most comprehensive with respect to sustainable development practices for site design, water efficiency, energy and atmosphere, materials and resources, and indoor environmental quality. (Please note, however, that programs such as the National Green Building Standard from NAHB are evolving to be more comprehensive in nature. Evaluation of other programs should be on-going.)
- Require a systematic and integrated design and implementation process.
- Require third party certification.
- Have successful track records and trained/skilled professionals within Virginia jurisdictions.

Because of these characteristics, for new construction, this committee suggests utilizing EarthCraft and LEED rating systems as the benchmark rating systems with enough flexibility to allow innovation and alternative equivalent systems. EarthCraft is suggested for single and multifamily units 3 stories or less. LEED is suggested for Subdivisions, Multifamily units (3 or more stories), commercial properties, and public facilities.

One should note; however, that the level of sustainable site design requirements for EarthCraft and LEED can vary considerably according to design priorities selected by the design team. Therefore, with respect to established JCC sustainable site design initiatives, practices, and priorities such as LID, Chesapeake Bay Ordinances, Better Site Design, and special stormwater criteria these ratings systems should be consider complimentary rather than all-inclusive.

The American Association of Landscape Architects (ASLA) has developed the 2009 Sustainable Sites Initiative (SSI), a sustainable site design rating system which is designed to be complimentary to LEED rating system. The SSI system is a comprehensive site design rating system; however, the system is new and is currently in the pilot phase.

IV. Public Facility Policy Recommendations

The subcommittee members agreed that our public facilities and programs should set an example for the private sector. As noted above, a County policy as mentioned in 2009 Comprehensive Plan Action 1.4.2 above has been developed and was adopted by the Board of Supervisors on March 23, 2010. The policy addresses both the construction and renovation of buildings and the design of the site. In general, the building portion sets a goal of Silver Certification under the Leadership in Energy and Environmental Design (LEED) rating system promulgated by the United States Green Building Council (USGBC). For residential structures, the policy also allows use of the EarthCraft Virginia system which has been used by the County and is well known in Virginia. It is also important to note that the policy allows for considerable discretion by the County Administrator to allow variations to the policy where needed for other County purposes, and it is shown that alternate measures would improve the overall environmental performance of the building. The subcommittee members reviewed and commented on this policy prior to its adoption by the Board of Supervisors.

V. Private Construction Policy Recommendations

Subcommittee members suggest that the best approach for a JCC Green Building Program for private construction is to encourage rather than mandate, sustainable development by the use of incentives, education, and a positive example as exhibited by JCC in the development and restoration of public projects. In order to provide some guidance, the majority of subcommittee members concurred with the policy statements (many of which were derived from policies already adopted by other Virginia localities) listed below. (Note that the language of these statements exactly replicates what was considered by the committee – however, for the committee’s final recommendation; please see the summary statement below.)

- Develop a checklist that tracks green building/sustainable development practices.
- Require new developments to complete LEED (or equal) assessment checklist explaining how the development will voluntarily comply with LEED or equivalent.
- Ongoing public education to encourage the implementation of green building practices. Much of this is to be accomplished by links to appropriate web sites. JCC will consult with EarthCraft or equivalent organization for such sites.
- New Development: JCC should develop incentives, appropriate standards, submission requirements and a review process for green development.
- Existing Development: JCC should develop a model program with audits, incentives, etc. for “greener” existing building and sites.
- Density incentive of 0.15 to 0.35 Floor Area Ratio for LEED or equal certification, ranging from Certified to Platinum. Bond to ensure compliance.
- Create a LEED or equivalent scorecard for site plans.
- Develop Energy Star or equivalent requirement for appliances and fixtures in multifamily buildings.
- Create a Voluntary Green Home Choice program based on EarthCraft or equivalent.
- Comprehensive Plan amended to incorporate support for green building practices.

- Energy Star or equivalent home designations for residential development proposals at the high end of the Comp Plan density range.
- Policy plan support for better site design, LID's and energy/water conservation.
- Proffer commitments during zoning process for a variety of green building and LID practices.
- LEED, EarthCraft or equivalent projects will have expedited review of building permits and site plans.
- The cost of LEED, EarthCraft or equal certification will be offset by reduced cost of JCC permits, fees, tap fees, etc.

The following italicized policies statements have been adopted by other locales but were not supported by a clear majority of the subcommittee members:

- *\$0.03/SF contribution to Green Building Fund for projects not seeking LEED or equal certification.*
- *Comprehensive Plan linkages established between the incorporation of green building/energy conservation practices and the attainment of certain Comprehensive Plan Options, planned uses, and densities/intensities of development.*
- *LEED certification or equivalent for nonresidential and multi-story residential zoning proposals in growth centers seeking the high end or overlay of the planned density/intensity range, a Comprehensive Plan Option, a change in use from what would be allowed as a permitted use under existing zoning.*

VII SUMMARY

In summary, the subcommittee suggests that the best approach for a JCC Green Building Program is to encourage, rather than mandate, sustainable development by the use of incentives, education, and a positive example as exhibited by James City County in the development of public projects. A list of possible incentives and potential issues associated with the incentives are provided as an attachment (**Attachment #3**). Committee members particularly encourage the incentive approach for small commercial and residential projects. However, the committee suggests that when the public facility, rezoning, or SUP project involves a building over a certain size (for instance, 10,000 sf), EarthCraft or LEED certification, or equivalent, is justified and should be required. (Please note that this document represents knowledge as of a June 2010, and that ordinance or policy language should be based on on-going evaluation of the most recent information and programs.)

D. Communications Committee

I. Communications Overview

The purpose of the Communications sub-committee is to actively engage with the community to promote green building practices (sustainability). The Communications sub-committee will provide an opportunity for the Roundtable to raise public awareness, gain support, engage community members, promote successes, deliver calls for action, and inspire behavioral change.

II. General Communications Strategies

To communicate effectively, the Green Building Roundtable Forum (GBRF) will address the following issues:

- The GBRF message
- The target audience
- How to reach the target audience
- What does your audience know and think now?
 1. What you would like them to know, think, and do?
 2. What are perceived benefits to sustainable development?
 3. What are perceived barriers of sustainable development?
 4. Why is it in the best interest of the target audience to take action?

III. Message

The message will need to be tailored depending on the target audience and the particular subject that is being communicated (i.e. financial incentives that are available, upcoming zoning ordinance amendments, etc.).

IV. Identifying the Target Audience

The first steps in conducting an outreach campaign are to identify the target audience, the message objective and the appropriate messenger or medium. Below is an outline of selected segments of populations along with suggestions on potential communications strategies that are generally effective for reaching out to that group.

The Communications subcommittee developed communications strategies that required no, or minimal at most, expenses to execute.

- ❖ County Employees
 - A valuable community source of information.
 - Web Site, TV 48, paperless messages (i.e. e-pamphlets), social networking, Green Team.
- ❖ Residential Sector
 - What are the questions, incentives, and options?
 - Home Owners
 - Renters & Landlords
 - Media releases, magnets, web site, TV 48.
- ❖ Business Sector
 - What is the methodology to incorporate green practices?
 - Large Scale Businesses
 - Small Scale Businesses
 - Greater Williamsburg Chamber and Tourism Alliance, media releases, social networking, partnerships.
- ❖ Youth
 - Higher Education
 - Social responsibility.
 - Concentration on “why to go green”.

- Encourage input. Show we value their input.
 - Facebook, Twitter, YouTube, Web Site. Internal publication, i.e. Flat Hat, social networking.
- Elementary and Secondary School Children
 - Already part of their culture.
 - Offer recycling at sports venues.
 - “It’s the right thing to do” message.
 - What is the county doing for me?
 - PTA, web site, media releases
- ❖ Retirement Community
 - Show that they can change and in doing so provide real leadership.
 - Connection with youth.
 - Social networking, media releases.
- ❖ Development Community
 - How do we encourage, incentivize and reward them?
 - Streamline permit process?
 - Eliminate regulatory review (DRC)?
 - How to reduce costs?
 - Quicker project Turnover – 5 projects in a month vs. 3 non-green projects.
 - What is the correct message to this audience?
 - Audience = Associations, i.e. Builders, Realtors. Suppliers, Architects, Engineers, Home Improvement Co., Surveyors.
 - Greater Williamsburg Chamber and Tourism Alliance, media releases, social networking, partnerships

V. Connecting with Target Audience

Getting your message out to local media can be one of the most effective ways of education the public and gaining the support needed for sustainable community efforts. Below are a sample press release and a list of local media resources.

Sample Press Release (excerpt)

FOR IMMEDIATE RELEASE Local Government and Business Partnerships on Outreach

Chicago, Illinois: The Chicago Green Office Challenge engages major property managers, building owners, and tenants in a friendly competition to significantly increase the environmental performance of buildings in the City’s central business district. Participants work to decrease energy consumption, increase their recycling rates, and find others ways to reduce their environmental impacts. The Challenge brings together the tools developed by key partners including the US EPA’s Energy Star program, the Building Owners and Managers Association, ICLEI – Local Governments for Sustainability, the Clinton Climate Initiative, and the US Green Building Council. Participants get to reap the benefits of lower energy bills as well as recognition from the Mayor in print and online media

VI. Media Type

❖ Newspapers

- Virginia Gazette
- Daily Press
- Toano Norge Times
- Richmond Times Dispatch
- El Eco De Virginia
- Tidewater Hispanic

❖ Online Newspapers

- wydaily.com,
- Pilotonline.com

❖ Magazines

- Next Door Neighbors
- Williamsburg Health Journal
- Inside Business

❖ Radio

- The Tide 92.3 FM
- WBach 107.9 FM
- WMBG 740 AM
- WHRV.89.5
- WNIS790
- WTAR 850 AM
- KICK 106.1 FM
- BOB 93.7

- Eagle 97
- JAMZ 103
- 2WD 101.3
- The Fox 106.9
- FM99 WNOR
- Extra 99.1 FM
- Radio Selecta 1050 AM

❖ TV

- Channel 3 WTKR
- Channel 10 WAVY
- Fox 43
- Channel 12 WWBT Richmond,
- Channel 13 WVEC, Channel 15 WHRO

❖ Government Publications

- Virginia Municipal League
- Virginia Town and City
- Update, Virginia Association of Counties
- County Connections,
- Ship's Log
- FYI

VII. Community's Current Knowledge of Sustainable Development

By understanding what the community already knows about sustainable development will help the GBRF address key issues and close the knowledge gap. With our limited amount of resources the GBRF should focus on educating the community. Sustainable development is about avoiding wasteful practices; the GBRF will adhere to this concept by not wasting resources educating the community on issues they already know. Rather, we will be strategic in conveying and promoting our message.

VIII. Post GBRF Knowledge

Our communications efforts will focus on what we want our community to do. Communicating action and the means to act will simplify sustainable practices. The GBRF acknowledges that each audience segment has a different way of receiving information and different information that needs to be delivered. By avoiding a one-size-fits-all strategy, the segments will be more responsive to the message and more likely to act.

IX. Additional Resources

1. CLEI, Local Governments For Sustainability Resource Guide
2. <http://jamescity/Departments/Communications/media%20list%20-%20feb.htm>

Attachment 1: Tax and Utility Incentives Available to Homeowners (Sept. 2009)

1. Virginia Natural Gas Incentives
 - a. Free Programmable Thermostat
 - b. Equipment Rebates (temporarily suspended – hope to reinstate them)
 - i. \$500 for a 90%+ AFUE Furnace
 - ii. \$500 for a tankless gas water heater (.82+ EF)
 - iii. \$150 for a tank type gas water heater (.62+ EF)
 - c. Low Income Weatherization Program - Virginia Natural Gas has partnered with state certified weatherization agencies – including the Williamsburg/James City County Community Action Network to provide cost-effective energy efficiency measures for customers with an income below 175% of the federal poverty (\$38,588 for a family of 4).

Besides weatherization measures, the agency may determine that equipment and appliance repair or aid with appliance replacement is needed. Participants are asked to partner with the program to develop and carry out a household energy savings Action Plan. All efficiency measures and energy education services are provided free of charge to the customer.

Peninsula Residents (other than Hampton) should call the Williamsburg - James City County Community Action Network at (757) 229-9389.

2. Federal Tax Credits for Homeowners (<http://www.energystar.gov/taxcredits>)
 - a. Tax Credit for 30% of the cost of materials (\$1,500 cap, and placed in service in 2009-2010 on a primary residence) for the following:
 - i. Insulation
 - ii. Windows & Doors meeting efficiency requirements
 - iii. Asphalt & Metal Roofing meeting energy star reflectivity requirements
 - iv. HVAC equipment meeting efficiency requirements
 - v. Non-solar water heaters meeting efficiency requirements
 - vi. Biomass stove meeting efficiency requirements
 - b. Tax Credit for 30% of the Total Cost (no cost cap, and placed in service by 2016) for the following:
 - i. Geothermal Heat Pump Systems
 - ii. Solar Hot Water Systems
 - iii. Solar Photovoltaic Systems for power
 - iv. Residential Wind Power Systems
 - v. Fuel Cell and micro-turbine systems (limit of \$500 per ½ KW)
3. Renewable Energy Credits – Available through some solar and wind installers, these are available for at least solar hot water, solar PV, and wind systems, and provide an annual cash payment. Estimated payment for an \$8-\$9,000 residential solar hot water system is \$800

annually (in addition to 30% tax credit on installation of system). One source for more information is: Solar Services, Inc. **(757) 427-6300**.

4. State Tax Exemption Holiday: From Friday, October 9 through Monday, October 12, 2009 Virginia's ENERGY STAR Sales Tax Holiday will take place. During the holiday, Virginians will be exempt from paying the state and local sales tax on ENERGY STAR qualified products that cost \$2,500 or less (products such as compact fluorescent light bulbs (CFLs), Ceiling Fans, Clothes washers, Dehumidifiers, Dishwashers, Programmable Thermostats, Refrigerators, and Room Air Conditioners).
5. Ongoing Virginia State Tax Deduction for certain Energy efficient appliances: 20% of the sales tax paid in purchasing heat pumps, water heaters, oil furnaces, air conditioning systems that meet certain efficiency standards, as well as clothes washers, room air conditioners, dishwashers, and standard size refrigerators that meet applicable energy star requirements. See website for details: <http://www.dmme.virginia.gov/DE/taxcredit.shtml>

Attachment 2: Tax and other Financial Incentives Available to Commercial Building Owners (Sept. 2009)

6. Federal Tax Deduction for Commercial Building Owners (<http://www.energystar.gov/taxcredits>)

Businesses can take a tax deduction for new or renovated buildings by reducing the energy costs associated with three components—lighting system; building envelope; and heating, cooling and water heating equipment. Buildings must exceed the ASHRAE 90.1-2001 standard and be placed in service between January 1, 2006 and December 31, 2013 in order to be eligible. (See IRS Notice 2006-52 and IRS Notice 2008-40 for details) The deduction is available in two levels:

Buildings that save 50% or more of projected annual energy costs across all three system components are eligible for a tax deduction of \$1.80 per square foot.

Buildings that save a percentage of projected annual energy costs for one of the three components—building envelope (10% energy savings), lighting (20%), and heating & cooling (20%)—are eligible for a partial deduction of \$0.60 per square foot.

The organization that makes the expenditures is generally the recipient of the deduction, which can be taken in the year the building is placed in service. In the case of a public building, the designer may take the deduction. The building must be certified by a qualified individual (a licensed engineer or contractor) as meeting the energy cost savings goal.

7. Tax Incentives for Solar, Wind and Geothermal Systems: The incentives apply to solar and wind systems placed in service from January 1, 2006 until December 31, 2016 and to geothermal heat pump systems placed in service from October 3, 2008 until December 31, 2016. The incentives are worth 30% of the installed cost of the solar or wind system, and 10% of the cost of the geothermal system. The economic stimulus legislation also provides the option for businesses to take a grant from the U.S. Treasury Department during 2009 and 2010 in lieu of the investment tax credit. Credit Claimed on IRS Form 3468.
- a. Tax Credit or Grant for Geothermal Systems: Qualified geothermal systems are ground source heat pumps with related equipment used to produce, distribute, or use energy derived from a geothermal source. Commercial customers can get an investment tax credit of 10% of the installed cost, available through 2016. The ARRA legislation also provides the option of taking a grant in lieu of the credit, worth 10% of the installed costs for equipment placed in service during 2009 and 2010.
 - b. Tax Credits for Solar Systems: Qualifying equipment will use solar energy to (1) generate electricity, or heat/cool or provide hot water to a structure, or (2) illuminate the inside of a building by means of fiber-optic distributed sunlight (tube systems and passive solar are not eligible). For more information visit www.seia.org. For solar water heating, systems must be certified for performance by the Solar Rating Certification Corporation (SRCC) or a comparable entity endorsed by the state government in which the system is

located. At least half of the energy used by the system to heat the water must be solar energy. Expenses for heating swimming pools or hot tubs are not eligible.

8. Renewable Energy Credits - Available through some solar and wind installers, these are available for at least solar hot water, solar PV, and wind systems, and provide an annual cash payment. Estimated payment for an \$8-\$9,000 solar hot water system is \$800 annually (in addition to 30% tax credit on installation of system).
9. Performance Contracting - This is starting to emerge as an option for retrofitting existing buildings to improve energy performance. A performance contractor will evaluate your building and propose to make improvements to your building envelope and systems, and will help obtain financing, with the payments to make the improvements to be paid for by improvements in energy performance that will be guaranteed by the contractor. This industry is somewhat in its infancy, but state energy performance contracts are in place now that allow governmental entities to avail themselves of this option, and George Mason University recently completed renovation of campus buildings using this form of contract with great success.

For State ESCO Forms/guidance, see

<http://www.dgs.state.va.us/DivisionofEngineeringandBuildings/DirectorsOffice/DEBContracts/EnergyPerformanceContracting/tabid/393/Default.aspx>).

For information on performance contracting at GMU, see

<http://facilities.gmu.edu/physicalplant/energy/pc/main.html>

Attachment 3: Green Building Design Incentives

The following list includes incentives that have been considered by communities looking to encourage green building or low impact design. The bulleted items below each incentive identify issues that should be considered before pursuing the incentive.

Increased Densities

- Allow greater residential densities with the implementation of techniques.
- With more sensitive design the land is able to manage more units.
- Potentially greater impacts needing mitigation.

Reduced Review Time / Expedited Review

- Commit to a priority status with a maximum time between receipt and review.
- Project may need special studies and reviews that must be identified early.
- Impacts to staffing resources and other project review schedules. Outside consultants could also be used to expedite.

Property Tax Reduction

- Reduce or waive property taxes for a given number of years.
- Lower service requirements result from lower impacts.
- Reduced revenues.

Reduced Application Fees

- Waive all or a portion of the submittal fees on projects.
- Due to lesser impacts to the community, lower fees are charged.
- Impacts to jurisdiction resources. May be offset by reduced habitat restoration and environmental costs

Public Recognition

- Emphasize projects on website, at applicable Board, PC and other (Wetland/Chesapeake Bay Board, etc.) and in utility mailers.
- Highlight the great development projects going on throughout the area & create public awareness.
- Staff resource impacts.

Dedicated Review Team

- Create a review team that is familiar with and dedicated to projects.
- Specialized team with technical expertise is necessary and more efficient assistance and review.
- Initial training of team members in techniques will be required in any event. Outside consultants could also be used - charged to applicant or paid for by jurisdiction.

Flexibility in Bulk, Dimensional & Height Restrictions

- Allow greater building heights and floor area ratios as well as reduced setbacks.
- Provides flexibility in overall site design. Allows reduction in building footprint. Addresses clustering needs.
- Consistency/compatibility with existing development and urban design goals.

Adjustments to the Required Parking

- Reduce parking requirements.
- Reducing parking is a technique for reducing impervious surfaces as well as a way to encourage more projects.
- May conflict with other community objectives.

Lower Stormwater Inspection Fees

- Reduce charges when development meets thresholds.
- Lower impacts to system capacity, so lower fees are appropriate.
- Reduced capital funds. Compensate by raising charges for conventional developments.

Fee Structure

- Develop a fee structure that is based on impervious surface. Fee reduction will be awarded based on implementation thresholds

Reduced Requirements for Conventional Stormwater Management

- Allow developers to reduce the amount of conventional stormwater management when they implement techniques. Example, if roof runoff is re-used onsite, or infiltrated on-site, the development can remove the roof square footage in the calculations for determining detention pond size.

Jurisdiction-Furnished Materials Program

- Jurisdiction could supply materials (pervious concrete, plants, soil, mulch, compost, etc) to offset development costs on projects.

Attachment 4: Green Buildings in Alexandria Policy Recommendations

*Green Buildings in Alexandria: Policy Recommendations
Appendix #5*

**Regional Green Building Policies and Programs
Overview: COG Members**

February 5, 2008 (with updates for Fairfax County)

Jurisdiction and Green Building Contact Information	Policies for Public Facilities	Policies for Private Development
VIRGINIA		
<p>City of Alexandria, VA www.alexandriava.gov</p> <p>Jeremy McPike jeremy.mcpike@alexandriava.gov</p> <p>Erica Bannerman erica.bannerman@alexandriava.gov</p>	<p>Green Building Policy for City facilities. Requires:</p> <ul style="list-style-type: none"> • Analysis procedures for LEED feasibility for facilities 5,000 or greater • Staff green building training • Procurement practices for green Architectural/ Engineering services, buildings maintenance, and supplies • LEED-registered projects in planning and construction. 12, 000 sq ft green roofs. • LID demonstration projects • Participation in Energy Star, Rebuild America, and the USGBC. • Public Schools incorporate energy conservation and green measures <p>Green public projects in construction include TC Williams High School - LEED certification pending (Awarded Virginia Sustainable Building Network's Green Innovation Award), and the Charles Houston Recreation Center.</p> <p>LEED registered projects include the new DASH Bus Facility, Police Department, and Human Services under LEED Existing Building.</p> <p>A 5,000 square foot green roof and 5,000 square foot bioretention area will be installed at Coral Kelly Magnet Elementary School by 2009.</p> <p>Additionally, the Station at the Yard project is a mixed-use building with a LEED registered fire station and retail for the first floor and four stories of EarthCraft affordable/ workforce housing units above.</p>	<p>Checklist that tracks green building/ sustainable development practices</p> <p>Contractors of new developments required to complete LEED assessment checklist explaining how the development will voluntarily comply with LEED.</p> <p>Private Development includes the first LEED - Gold certified condo Project in Virginia at the Cromley Lofts.</p> <p>Ongoing public education to encourage the implementation of green building practices.</p> <p>Planning staff is developing possible incentives, appropriate standards, submission requirements, and the City's review process for green buildings.</p>

Jurisdiction and Green Building Contact Information	Policies for Public Facilities	Policies for Private Development
<p>Arlington County, VA www.arlingtonva.us</p> <p>Joan Kelsch jkelsch@arlingtonva.us</p>	<p>Internal working policy supporting sustainable practices. Formalized policy requiring LEED Silver certification of all public buildings over 5,000 sq ft. in development.</p> <p>Demonstration green roof on County office building.</p> <p>Green public buildings include LEED certified Langston Brown School and Community Center; LEED certification pending for Walter Reed Community Center, the Parks Operations building, and Shirlington Library.</p>	<ol style="list-style-type: none"> 1. LEED Scorecard for site plan projects. Expectation 26+ credits. Staff oversight. 2. Density Incentive of .15-.35 FAR for LEED certification (ranging from certified to platinum). Bond to ensure compliance. 3. \$0.03/sq ft contribution to Green Building Fund for projects not seeking LEED certification. 4. Energy Star requirement for appliances and fixtures in multifamily buildings. 5. Voluntary Green Home Choice program based on EarthCraft.
<p>Fairfax County, VA www.fairfaxcounty.gov</p> <p>Noel Kaplan Department of Planning and Zoning Noel.Kaplan@fairfaxcounty.gov</p>	<p>Sustainable Development Policy for Capital Projects adopted by Board of Supervisors, February 2008.</p> <p>Goal of LEED silver certification for county projects greater than 10,000 square feet in size; project teams encouraged to meet LEED ratings beyond Silver if practicable.</p> <p>Goal of LEED certification for projects between 2,500 and 10,000 square feet; project teams encouraged to attain LEED Silver level if practicable.</p> <p>Highest LEED level practical for smaller projects.</p> <p>Energy Management Control Systems into all new county buildings and retrofits.</p> <p>LID demonstration projects.</p>	<p>Comprehensive Plan Amended in December 2007 to incorporate support for green building practices.</p> <p>Plan linkages established between the incorporation of green building/energy conservation practices and the attainment of certain Comprehensive Plan Options, planned uses, and densities/intensities of development.</p> <ul style="list-style-type: none"> - LEED certification or equivalent for nonresidential and multi-story multifamily residential zoning proposals in growth centers seeking: <ul style="list-style-type: none"> - The high end or Overlay Level of the planned density/intensity range; - A Comprehensive Plan Option; - A change in use from what would be allowed as a permitted use under existing zoning. - ENERGY STAR Qualified home designations for other residential development proposals at the high end of the Plan density range. <p>Policy Plan support for better site design, LID, and energy/water conservation</p> <p>Proffer commitments during zoning process for variety of green building and LID practices.</p> <p>Ongoing public education to encourage LID techniques, including LID</p>

Jurisdiction and Green Building Contact Information	Policies for Public Facilities	Policies for Private Development
<p>City of Falls Church, VA</p>	<p>City Council 2007 Vision and Strategic Plan promotes green building and LID. Directs staff to create green building program for public and private buildings.</p> <p>2006 Comprehensive Plan incorporates policies for green building.</p> <p>Pursuing use of recycled carpets in City building renovations. Energy management system in City Hall.</p> <p>LID demonstration project in City Hall area.</p>	<p>City Council 2007 Vision and Strategic Plan promotes green building and LID. Directs staff to create green building program for public and private buildings.</p> <p>2006 Comprehensive Plan incorporates policies for green building.</p> <p>Successful negotiations for LEED and green roofs on four private projects.</p>
<p>Town of Leesburg, VA</p>	<p>Leesburg Town Plan promotes energy efficiency and use of green building standards such as LEED</p>	<p>Leesburg Town Plan promotes energy efficiency and use of green building standards such as LEED</p>
<p>Loudoun County, VA www.loudoun.gov</p>	<p>Green building practices currently being implemented. Energy efficiency and green design in current RFPs. ENERGY STAR appliances, tankless water heaters, dual flush toilets, waterless urinals, programmable thermostats, and ultraviolet lighting in ductwork are a County standard.</p> <p>LEED accredited professionals on staff. Energy manager on staff since 2001.</p> <p>Energy accounting software in use for public buildings. Undertaking lighting retrofits.</p>	<p>Countywide Housing Policies, CPAM 2007-0001 - Adopted September 18, 2007</p> <p>Guiding Principles Policies - The County encourages development that utilizes energy efficient design and construction principles, promotes high performance and sustainable buildings, and minimizes construction waste and other negative environmental impacts.</p> <p>Mixed Use Business Zoning District - Adopted December 19, 2007</p> <p>Incentive Program - The Board of Supervisors may grant an increase of 0.1 FAR above the maximum permitted floor area ratio when at least 20% of the total floor area of the district achieves the Leadership in Energy and Environmental Design (LEED) Certification at the Gold level.</p>
<p>Prince William County, VA www.pwccgov.org</p> <p>Lou Ann Purkins lpurkins@pwccgov.org</p>	<p>Internal policy for green building under consideration</p> <p>Recently completed green police station and development services building to meet LEED certification</p> <p>Energy management control systems being implemented in all new buildings and building upgrades</p>	<p>Green building for private development under review by senior staff</p> <p>Amendment to the Environmental Chapter of the Comprehensive Plan for green building to be considered during 2008 update.</p> <p>Policy support for better site design, LID, and energy/water conservation in the</p>

Jurisdiction and Green Building Contact Information	Policies for Public Facilities	Policies for Private Development
		Comprehensive Plan. Proffer commitments and SUIP conditions negotiated during zoning process for a variety of green building and LID practices.

Jurisdiction and Green Building Contact Information	Policies for Public Facilities	Policies for Private Development
MARYLAND		
<p>City of Gaithersburg, MD www.gaithersburgmd.gov</p> <p>Erica Shingara eshingara@gaithersburgmd.gov</p>	<p>Master Plan Environment Element states following goals and strategies:</p> <ul style="list-style-type: none"> • Municipal facilities, City funded projects, and infrastructure projects be constructed, renovated, operated, maintained and deconstructed using green building, LID, waste management, and conservation landscaping principles and practices to the fullest extent possible. • Incorporate sustainable requirements in bid requests for new building projects or renovations, when feasible, and utilize construction consultants with green experience. • Perform energy audits of existing City facilities and implement energy retrofits when appropriate. <p>Green building education of City officials and staff</p> <p>City considering legislation requiring LEED Silver certification for municipal buildings.</p> <p>New LEED certified Youth Center</p>	<p>Green building education and outreach to residents, and development community.</p> <p>Partner in M-NCPPC Going Green at Home program with M-NCPPC.</p> <p>Green residential building code standards in development.</p> <p>Development Review: Requires new commercial, institutional, or multi-family development to complete and submit a LEED checklist as part of the site plan and building permit application process.</p> <p>Commercial Incentive Program with tiered incentives discounting City building permit fee according to levels of LEED certification:</p> <ul style="list-style-type: none"> • LEED Platinum: 50% refund; • LEED Gold: 40% refund; • LEED Silver: 30% refund; and • LEED Certified: 20% refund.
Greenbelt, MD	City requires LEED Silver certification for public buildings	
<p>Montgomery County, MD www.goinggreenathome.org</p> <p>Marion Clark, M-NCPPC marion.clark@mncppc-mc.org</p>	<p>Green Building Bill of 2007 requires all new County buildings, additions and major renovations greater than 10,000 square feet, and all building projects receiving County funding of 30% or more meet LEED Silver and Energy Design Standards. Includes life-cycle-cost analysis of alternative systems and components. Required written certification of</p>	<p>Green Building Bill of 2007 requires that all private commercial and multifamily development projects over 10,000 sq ft meet LEED certification or equivalent. The regulation to implement this Montgomery Green Building Law has been adopted.</p> <p>Senior staff developing green building implementation plan,</p>

Jurisdiction and Green Building Contact Information	Policies for Public Facilities	Policies for Private Development
	<p>compliance to energy standards.</p> <p>The regulation to implement this Montgomery Green Building Law has been adopted.</p> <p>Senior staff developing green building implementation plan.</p> <p>Energy conservation practices in all County buildings</p> <p>The Green Building Program for Montgomery County Public Schools (MCPS) works with students, staff and the community to establish MCPS as a model for sustainable school design and operations. www.Schools2Green.org</p>	<p>including tax incentive package.</p> <p>Going Green at Home outreach and education program for homeowners, builders, and contractors.</p> <p>Master and Sector Plans language encourages green building technology. White Flint and Glenmont redevelopment piloting LEED for Neighborhoods standard</p> <p>Development Review promotes and requests use of high performance measures.</p>
Prince George' County, MD	<p>General guidelines for environmentally sustainable development. Green building program launch in mid-2007.</p> <p>Low VOC paint purchasing for all public buildings.</p> <p>Energy Manager to be hired. Energy audits of County buildings underway.</p>	<p>General guidelines for environmentally sustainable development. Green building program under development.</p>
<p>City of Rockville, MD www.rockvillemd.gov</p> <p>Nate Wall nwall@rockvillemd.gov</p>	<p>Environmental Commission studying green building programs from other jurisdictions, and will make recommendations to Mayor and City Council for program.</p>	<p>Environmental Commission studying green building programs from other jurisdictions, and will make recommendations to Mayor and City Council for program.</p> <p>City currently has a moratorium in place on most new construction activities. Would like to have green building program in place before moratorium expires in December 2007.</p>

Jurisdiction and Green Building Contact Information	Policies for Public Facilities	Policies for Private Development
DISTRICT OF COLUMBIA		
<p>Washington, D.C. www.dc.gov</p> <p>Chris Shaheen, chris.shaheen@dc.gov</p>	<p>Green Building Act of 2006 legislates green building practices for government buildings:</p> <ul style="list-style-type: none"> Effective immediately, residential buildings over 10,000 sq ft and all commercial projects that result from lease of public 	<p>Green Building Act of 2006 legislates green building practices for private buildings:</p> <ul style="list-style-type: none"> In January 2009, all commercial buildings over 50,000 sq ft must complete LEED checklist as part of permit process In January 2010, commercial

Jurisdiction and Green Building Contact Information	Policies for Public Facilities	Policies for Private Development
DISTRICT OF COLUMBIA	<p>property through disposition must meet Green Communities or LEED Silver certification standards.</p> <ul style="list-style-type: none"> • Building projects first funded in FY08 budget, including interior renovations, residential, and commercial, must meet Green Communities or LEED Silver certification standards. • Starting in FY09 budget, all new construction or substantial improvement of projects receiving more than 15% of total costs through public financing must meet Green Communities or LEED certification standards. • District of Columbia building code to be updated to include green building practices <p>Energy efficiency, green power, and environmentally preferable purchasing.</p> <p>ENERGY STAR and green design included in RFP's.</p> <p>LID demonstration projects.</p>	<p>buildings greater than 50,000 sq ft and resulting from sale of public property through disposition must meet LEED certification standards</p> <ul style="list-style-type: none"> • In January 2012, all commercial buildings over 50,000 q ft must meet LEED certification standard <p>Expedited permitting of green building projects before policy implementation date</p> <p>Office of Planning Sustainable resource guide for development community</p> <p>Ongoing energy efficiency and conservation programs:</p> <ul style="list-style-type: none"> • Free energy audits. • Renewable Energy Demonstration Project provides up to 50% of installation costs • District Solar Initiative • ENERGY STAR appliance and lighting rebates • Grants for small business energy efficiency measures • Support for energy efficiency/weatherization in low income homes and CDC projects
Anacostia Waterfront Corporation www.anacostiawaterfront.net	Draft green development standards for public and private development in review.	Draft green development standards for public and private development in review.

Source: Greening the Metropolitan Washington Region's Built Environment, 2007, Metropolitan Washington Council of Governments
<http://www.mwco.org/environment/greenbuilding/>
<http://www.fairfaxcounty.gov/news/2008/030.htm>

Attachment 5: Arlington County LEED Submission Requirements



LEED Permit Submission Requirements for Site Plans with LEED Conditions

All permits should be submitted 10 business days prior to the date of the needed permit. This allows for flexibility in the event additional backup documentation is needed. If the documentation submitted does not meet the intent and requirement of the LEED credit, the permit may be held until the needed documentation is completed.

Below is a general list of LEED documentation that must be submitted to DES (Joan Kelsch / Adam Segel-Moss) prior to issuance of the following permits or certificates of occupancy.

Clearing, Grading, and Demolition Permit

- Provide updated LEED scorecard and tracking spreadsheet showing that progress is being made on all credits.
- Obtain approval of the Construction Waste Management Plan as required by the site plan condition. If LEED credit(s) is being sought, the CWM Plan should meet LEED requirements.
- Submit the Green Building Fund Contribution if it pertains to your project.

Excavation Sheet piling and Shoring Permit

- Provide updated LEED scorecard and tracking spreadsheet showing that progress is being made on all credits.
- Provide a floor plan that indicates recycling storage/ collection plan;
- Confirm that a commissioning (Cx) agent is on board prior to any above grade work. If the Additional Cx credit is being pursued, confirm that the Cx agent is reviewing the drawings in the design phase.
- Provide confirmation that water and energy use reduction are being incorporated into the design to meet the required thresholds. Provide documentation showing that an energy model is being used to evaluate insulation, windows, HVAC systems, etc. to meet the energy reduction requirements.

Footing to Grade Permit

- Provide updated LEED scorecard and tracking spreadsheet that shows progress is being made on all credits.
- Submit the Cx plan prior to approval of the Footing to Grade Permit.
- Bicycle rack locations must be shown on site and floor plans as part of final site development and landscape plan.
- Provide IAQ Management Plan for Construction;
- Provide updated information showing that water and energy use reductions are being incorporated into the design to meet the required thresholds.
- Submit the LEED Water Use Reduction template showing the project goals and fixtures considered.

Final Building Permit

- Provide updated LEED scorecard and tracking spreadsheet that shows progress is being made on all credits.
 - It is critical to think about the ENERGY STAR components and reduced lighting density early in the project as they must be met for final project approval. Although specific site plan conditions may vary, common Energy Star components include:
 - Clothes Washers
 - Dishwashers
 - Refrigerators

Attachment 6: Falls Church City Green Home Award Program

Awarded by the Building Safety Division, this program highlights residential construction projects that have been monitored by a Home Energy Rating System (HERS) Certified Rater and have shown to conform to one of several approved residential green building certification programs.

Homeowners and developers who choose to participate in the Falls Church City Green Home Award Program will be awarded for doing something positive to improve the sustainability of the environment and the community.

Customers can sign up for the program at the time of permit application and must submit copies of their certification guidelines and their contract with the HERS Certified Rater. They are then provided a yard sign declaring their participation in the program.

Once construction is completed, the customer will submit the final report from the HERS Certified Rater testifying successful completion of the program. The customer will then receive an award, which will be announced by City Council and on this Web site.

Call 703-248-5080 (TTY 711) for more information.

Attachment 7: Arlington County Summary of Green Building Ordinance Language

<http://www.arlingtonva.us/DEPARTMENTS/EnvironmentalServices/epo/EnvironmentalServicesEpoGreenBuildings.aspx>

Green Building

What is “Green Building”?

Green building is a collection of land-use, building design, and construction strategies that reduce the environmental impacts that buildings have on their surroundings. Arlington County has adopted the [US Green Building Council's](#) Leadership in Energy and Environmental Design (LEED™) Green Building Rating System as a way to measure the energy and environmental performance of buildings in the County. The LEED™ rating system allots points within six specific categories for environmentally beneficial building materials and design, in categories such as site location, water efficiency, energy and atmosphere, materials and resources, and indoor environmental quality. LEED™ is an easy way for any professional, business, or organization to master green building standards and practices. Read a [brochure about Arlington County's Green Building](#) (1 MB, [PDF format](#)) programs.



Cost and Green Buildings

The cost of going green is often raised as an issue. Thoughtful project planning and team coordination – a process known as “integrated design” -- helps ensure that green components are integrated into the project as cost effectively and efficiently as possible. In many cases, “green” does not cost more. In other cases, efficient HVAC equipment, additional insulation, water efficient fixtures, etc. may cost more upfront, but operating costs can be significantly reduced through the life of the building due to lower utility bills and reduced maintenance. Information and studies on the cost of green building are continually being published. The US Green Building Council website ([LINK](#)) maintains an up-to-date list of cost studies for green buildings.

Green Building Site Plan Conditions in Arlington (Private Development)

Arlington County encourages site plan projects to incorporate green building components and processes. Site plan projects are development projects seeking special exception to the Zoning Ordinance. The goal of this program is to reduce the environmental impacts of development. Read a [brochure about Arlington County's Green Building](#) (1 MB, [PDF format](#)) program. The program includes the following requirements:

1. **LEED™ Accredited Professional.** The program requires that all site plan projects have a LEED™ Accredited Professional on the development and construction team.

2. **LEED™ Scorecard.** All site plan applications in Arlington County must include the LEED™ scorecard with an explanation of all the LEED prerequisites each LEED™ credit, describing how they intend to achieve the credit, or why they are unable to incorporate the component into the project. This allows the County to measure a project's overall performance and to collect data on the environmental status of all site plan buildings in the County.
3. **LEED™ Tracking.** During project negotiation, a final number of LEED™ credits is identified and the commitment to incorporate them into the project is formalized in a site plan condition. This condition requires that reports be submitted with specific building permit applications. These reports track the progress of LEED™ prerequisites and components throughout the demolition and construction process. Permits will not be issued if LEED™ reports are incomplete.
4. **Construction Waste Management.** The developer agrees to provide a plan for diverting from landfill disposal the demolition, construction, and land clearing debris generated by the project. The plan should outline recycling and/or reuse of waste generated during demolition and/or construction. The plan should outline specific waste streams and identify the means by which waste will be managed (reused, reprocessed on site, removed by licensed haulers for reuse/recycling, disposal, etc.).
5. **Energy Star Appliances for Multi-family Residential Development.** In order to reduce energy used by standard appliances and fixtures in high-rise residential projects, the following standard language is included in the green building site plan condition (modifications may be made on a case-by-case basis)

For residential development, the developer agrees that all of the following types of appliances, fixtures, and/or building components used in the project shall have earned the U.S. EPA's Energy Star label: clothes washers, dishwashers, refrigerators, ceiling fans, ventilation fans (including kitchen and bathroom fans), residential light fixtures (comply with Energy Star's Advanced Lighting Package), programmable thermostats, and exit signs. The developer shall submit to the County Manager a statement listing all Energy Star-qualified components prior to issuance of the Core and Shell Certificate of Occupancy. For the commercial lighting in common areas of multifamily residential projects, (by way of illustration and not limitation, these areas include lobbies, corridors, stairwells, common rooms, fitness rooms, etc.), the developer shall reduce the need for lighting (through use of daylight where possible) and shall specify the use of energy efficient fixtures, bulbs, light sensors, motion sensors, timers, and interior design, e.g., paint color, that maximize energy efficiency in lighting. The guidelines outlined by the US Green Building Council's LEED for Commercial Interiors (LEED-CI) credit entitled, Optimizing Energy Performance: Lighting Power shall be used toward the goal of maximizing energy efficiency in the lighting of common areas.

6. Standard Site Plan Language

The county's standard site plan language covering green building and LEED issues specifically states the following (modifications may be made on a case-by-case basis):

LEED Credits and Sustainable Design Elements

- a. *The developer agrees to hire a LEED Accredited consultant as a member of the design and construction team. The consultant shall work with the team to incorporate sustainable design elements and innovative technologies into the project so that numerous building components will earn the developer points under the U.S. Green Building Council's system for LEED certification. Specifically, the developer agrees to include sustainable elements in design and construction that are sufficient to meet the requirements for all LEED Prerequisites and include at least the number of LEED components necessary for baseline LEED certification. The developer agrees to use commercially reasonable efforts to achieve additional LEED points which would qualify the building for certified levels.*

- b. *The developer further agrees to submit, to the Department of Environmental Services (DES) and to the Zoning Office, a report prepared by the LEED consultant and documentation upon request to substantiate the report. Such reports will be submitted prior to issuance of the following permits or certificates of occupancy for construction of the project and will summarize the efforts to date of the inclusion of the sustainable elements within the project:*
 1. *Clearing, Grading & Demolition Permit*
 2. *Excavation, Sheeting and Shoring Permit*
 3. *Footing to Grade Permit*
 4. *Final Building Permit*
 5. *Shell and Core Certificate of Occupancy*
 6. *Partial Certificate of Occupancy for occupancy of the last floor of space*
 7. *Master Certificate of Occupancy*

In addition, prior to issuance of the first Certificate of Occupancy after the Shell and Core Permit, the developer will have its LEED consultant submit a certification to the County Manager that the elements to earn the above specified numbers of points have been included in the buildings.

Green Building Fund

The County established a Green Building Fund and a policy of having site plan developers who do not commit to achieving a LEED™ rating from the U.S. Green Building Council (USGBC) contribute to the Fund. The contribution is calculated at a rate of \$0.045 per square foot. (This contribution calculation is based on the fees assessed by the USGBC for registration and evaluation of a formal LEED™ application.) The Green Building Fund is used to provide education and outreach to developers and the community on green building issues. If a project

receives LEED™ certification from the USGBC, the Fund contribution is refunded upon receipt of the final LEED™ certification.

Green Building Incentive Program

Originally adopted in October 1999, the incentive program was revised and enhanced in December 2003 and again in March 2009. The program allows a private developer to apply for additional density if the project achieves a LEED™ award from the USGBC. The program applies to all types of building projects (office, high rise residential, etc.) achieving any one of the four LEED™ awards. The Bonus Density Program for Site Plans allows the developer to apply for densities as follows:

LEED Level	Prior to March 14, 2009	After March 14, 2009	
		Office	Residential
Certified	0.15 FAR	0.05 FAR	0.10 FAR
Silver	0.25	0.15	0.20
Gold	0.35	0.35	0.40
Platinum	0.35	0.45	0.50

Find out more about the [Green Building Incentive Program](#) or contact the Arlington County Environmental Planning Office (703-228-4488) or the Arlington County Planning Division (703-228-3525).

Green Building Resources

Read a [brochure about Arlington County's Green Building](#) (1 MB, [PDF format](#)) program, or check out our [Resources](#) page for more information on Green Buildings.

Review [LEED documentation requirements for Site Plan projects](#) throughout the permit process (1MB PDF Format)

Attachment 8: Fairfax County Green Building Policy Board Adoption
www.fairfaxcounty.gov/news/2008/030.htm

Fairfax County Board of Supervisors Adopts Green Building Policy

At its regularly scheduled meeting today, the [Fairfax County Board of Supervisors](#) adopted a green building policy for county facilities. The policy requires that buildings be constructed to meet minimum green building standards, if not exceed them.

Today's board action supports Fairfax County's many [environmental initiatives](#), including [Cool Counties](#). Last year, Fairfax County pledged to reduce its greenhouse gas emissions by 80 percent by 2050. The county led the development of this new initiative, along with the Sierra Club and two other county governments.

Fairfax County will use the U.S. Green Building Council's Leadership in Energy and Environmental Design (LEED) rating system. At a minimum, county buildings over 10,000 square feet will be required to reach Silver level LEED certification.

The policy applies to the construction of new county buildings and renovations or additions to existing buildings. However, the policy will not be applied to county-constructed single family homes, town houses and low-rise multi-family buildings. Instead, the Energy Star rating system will be used for these types of buildings.

County officials project that the new policy will cost an additional 2-4 percent in construction costs per building. However, these one-time costs are projected to be offset by annual savings in energy and water bills. Per year, green buildings are expected to slash energy costs by 15-25 percent and water consumption by 20 percent.

One of the county's newest green buildings demonstrates the savings that can be achieved. Built in 2006, Fire Station 40 will save approximately \$15,000 per year in reduced energy and water bills.

POLICY COMMITTEE MEETING

February 9, 2011

6:00 p.m.

County Complex, Building A

1) Roll Call

Present

Mr. Jack Fraley

Mr. Tim O' Connor

Absent

Mr. Reese Peck, Chair

Mr. Al Woods

Staff Present

Mr. Allen Murphy

Ms. Tammy Rosario

Ms. Kate Sipes

Ms. Ellen Cook

Ms. Terry Costello

Mr. Jack Fraley called the meeting to order at 6:00 p.m.

2) New Business – Residential Districts zoning ordinance updates

a) Affordable Housing /Workforce Housing

Mr. Fraley commented on the great work that staff has done with the write-ups for tonight's discussion. He stated that he could support the framework that was presented along with the alternatives that were presented. He does believe that these policies and guidelines will fall under the Board of Supervisors' policies.

Mr. Tim O'Connor noted that after researching the numbers, the County has only 3-4% of housing units as affordable housing.

Mr. Fraley stated that there have been discussions as to whether the County needs an actual policy with regard to affordable housing.

Ms. Kate Sipes spoke about the definitions of affordable and workforce housing. She asked if there were any opinions on having a mix of housing within developments.

Mr. Fraley stated that he believed that there should be incentives, not requirements, to encourage a mix of affordable and workforce housing within developments. He could not support adding requirements for affordable and workforce housing.

Mr. O'Connor agreed and noted that he would support incentives rather than requirements.

Ms. Sipes stated that after consulting with the Housing office, it was important to offer a range of housing. It is important to provide housing for the entire spectrum. She also mentioned the importance of providing a mix of costs for units in the same neighborhood.

Mr. Fraley stated that this may be accomplished by providing of mixture of unit types.

Mr. Robert Duckett representing the Peninsula Housing Builders Association offered some comments. He stated that it was important from his organization's standpoint to emphasize that proffers are voluntary, and sometimes these things tend to evolve into expectations. He also stated that his organization is a strong supporter of workforce housing. Mr. Duckett referred to the City of Virginia Beach ordinance as an excellent model. He appreciated that the County utilized the recommendations that were published from the Chamber of Commerce. Mr. Duckett stated that his organization believes that the answer to workforce housing is not to increase proffers. There are two things that drive up housing costs – land cost and governmental regulation. The key component with regards to land cost is density. He stated that expedited review would help in reducing costs.

Mr. Fraley asked Mr. Duckett how he would define expedited review. He asked Mr. Duckett to consider options and get back to him. It may include shorter review times and different levels of review.

Mr. Duckett stated that his organization could support mixes of housing within a neighborhood as an incentive. His members may have objections to a large variance, for example, a \$700,000 home adjacent to a home costing \$100,000.

Mr. Fraley stated the Planning Commission has always encouraged not creating a situation where affordable housing is in only one area of the development.

Mr. Roger Guernsey stated that it really comes down to the size of the neighborhood. If a neighborhood is large enough a mix of housing is probably more acceptable.

Mr. Fraley stated that one way to accomplish this would be through design guidelines and illustrations. Mr. Fraley also stated that he could not support inclusionary zoning. He commented on the idea of applying affordable housing to the school proffer policy.

Ms. Sipes stated that the intent of the policy would be to lay out expectations while still allowing the flexibility for legislative cases. Ms. Sipes commented that there have been cases where the proffers have been reduced, or eliminated altogether.

Mr. Guernsey stated that he was part of the Chamber group that looked at affordable housing. The group discovered that without incentives affordable housing just did not happen. He thought that there was some provision in the Virginia Beach ordinance that had some kind of expectations of affordable housing.

Ms. Sipes stated that she thought that ordinance was geared toward specific targeted areas within the city of Virginia Beach, with the incentives not applying to the entire city. She noted that may be difficult to replicate in James City County.

b) Infill Development

Mr. Fraley agreed with having an ordinance. He expressed his concerns over the gross versus net developable acreage when determining density requirements. He mentioned the Autumn West case. He stated that the chart shown in the Cluster memo explained the calculations more clearly.

Mr. Murphy stated that the intent of this ordinance is mainly for redevelopment, or areas that have not been developed in established residential areas. He gave the example of the Ironbound Road

area development. The intent here was to continue to redevelop in this area with densities that were already in that area. There was not a zoning designation adequate for that flexibility, so the area was rezoned to mixed use to allow for that flexibility, but it was not a true mixed use development. He stated that what is needed is a residential designation flexible for residential redevelopment.

Mr. Fraley asked about commercial districts. He has more concerns over the redevelopment in the commercial districts.

Ms. Sipes stated that this topic will be discussed at a later date.

Mr. Fraley commented that some of the items in this proposed ordinance seemed discretionary. This may cause problems with those who are asking for predictability. He thought maybe adding some examples may prove beneficial. He also suggested adding some illustrations. He expressed his concerns over the idea of no minimum lot widths as what was listed in the proposed ordinance. Mr. Fraley questioned the minimal or no perimeter buffering.

Ms. Sipes explained that the intent for the infill development is to be a part of the existing residential development.

Mr. Fraley suggested making that portion of the ordinance as clear as possible. Overall he thought the ordinance was good in that it provided flexibility and incentives.

There was a discussion on the intent of perimeter buffering separating dissimilar zoning designations. Then the question came up as to what is dissimilar. One basis would be different zoning districts, for example, a business district and a residential district.

c) Cluster Ordinance

Mr. Fraley started the discussion stating that he believes this was rarely used.

Ms. Ellen Cook stated that she had researched past cases that this designation was used for 7 out of 9 R-1 or R-2 residential developments over the last ten years. The last one was the Soap and Candle Factory Development.

Mr. Fraley suggested making this by-right.

Ms. Cook stated that there is a by-right option with lower density. The one requirement would be to submit a master plan and obtain approval by the Development Review Committee (DRC). She noted that often, a rezoning is required for a development to go to a residential district that allows for use of the cluster overlay.

Mr. Fraley suggested some more conversation and research about making it by-right. Mr. Fraley then discussed his thoughts on cluster; he suggested using incentives, requiring a conceptual plan, encouraging a mixture of housing types, and establishing a range of permitted lot sizes.

Mr. Murphy stated that a big incentive in the County's current ordinance for clustering is the lack of a definitive lot size.

Mr. Fraley suggested providing a range. He also expressed his ideas about requiring a conceptual plan. He asked about neighborhood commercial uses that might be by-right and some that might be permitted by a special use permit. Mr. Fraley stated he would send some suggested uses as examples for staff to consider.

There was a discussion about having open space in a conservation easement. Mr. Murphy stated that caution needs to be taken about giving credits for something that might already be in a conservation easement due to other regulations, for example, Chesapeake Bay regulations. He also suggested making a distinction between rural subdivisions where the intention is to permanently have open space because it matches the character of the area versus easements in residential development in the Primary Service Area. Mr. Murphy stated that by putting this area in a permanent conservation easement, if this area were needed in the future, for example, to make improvements or to comply with future cluster ordinances, there would be limited or no options.

Mr. Fraley stated that in any case this would be voluntary.

Mr. O'Connor asked Mr. Fraley what he meant by incorporating a mix of housing.

Mr. Fraley suggested have a mixture, such as multi-family and single family dwellings within the same development. This may be done by offering incentives and guidelines on how to accomplish this.

Mr. Duckett spoke on the proposed cluster ordinance. His organization supports the idea that the open space should be connected throughout a development, and should be located to benefit the maximum number of units.

Mr. Fraley suggested offering incentives for having the maximum number of units facing open space.

Mr. Duckett stated that his organization supports a conceptual plan being optional not a requirement. He said this could cost the developer more, or take longer through the approval process. He expressed concern that there would be uncertainty about what needed to be shown on the conceptual plan and what would be needed to satisfy that requirement.

Mr. Fraley stated that a conceptual plan would be defined so as to be predictable. The benefit of a conceptual plan is to work out issues up front before engineered drawings are done. He stated that it has worked very well for those who use the conceptual plan process.

Mr. Duckett stated his members would not support increasing the percentages of open space requirements. His organization is not supportive of using the net developable acreage in determining density. He stated that in general his organization agrees with incentives. Mr. Duckett stated that they are in favor of defining a rural cluster as well.

Moving on to more general residential issues, Mr. Fraley mentioned the problem with extremely old master plans for developments that are not completely built out. He asked whether the length of a master plan could be legislatively defined.

Mr. Murphy stated that a master plan is governed in perpetuity. This has been decided by the State Legislature. He will raise this issue with the County Attorney.

Mr. Fraley asked about defining open space. He questioned whether some recreational facilities should be included, for example, a golf course. He felt that the difference was it being accessible to everyone. For example, a golf course is not open to everyone, whereas a ball field is open to everyone.

Mr. O'Connor gave an example explaining why he felt that a golf course was open to everyone.

Ms. Cook stated that there is currently a ceiling in the ordinance on how much of the open space requirement can be met using golf course land. Staff will research this subject.

There will be a forum on TDRs on February 10th. There is a Board work session on February 22nd. The next Policy Committee meeting will be February 23rd at 7 p.m. with administrative and procedural items. On February 24th, the Committee will review multiple-use districts.

3. Adjournment

The meeting was adjourned at 7:40 p.m.

Reese Peck, Chair of the Policy Committee

POLICY COMMITTEE MEETING

February 23, 2011

7:00 p.m.

County Complex, Building A

1) Roll Call

Present

Mr. Reese Peck, Chair

Mr. Tim O' Connor

Mr. Jack Fraley

Absent

Mr. Al Woods

Staff Present

Mr. Allen Murphy

Ms. Melissa Brown

Mr. Jose Ribeiro

Mr. Chris Johnson

Ms. Ellen Cook

Ms. Sarah Propst

Mr. Brian Elmore

Mr. Reese Peck called the meeting to order at 7:00 p.m.

2) Minutes –

A. January 24, 2011

Mr. Jack Fraley moved for approval of the minutes.

In a unanimous voice vote, the minutes were approved (3-0: Absent: Woods).

B. January 31, 2011

Mr. Jack Fraley moved for approval of the minutes.

In a unanimous voice vote, the minutes were approved (3-0: Absent: Woods).

3) New Business

A. Nonconformities zoning ordinance updates

Ms. Melissa Brown stated there is an expectation that nonconforming uses will become more conforming over time. She stated based on discussions with the County Attorney's office, staff recommends creating separate ordinance sections to address nonconforming structures, uses, and signs.

Mr. Tim O'Connor asked if the ordinance discussed substantial alterations in business operations.

Ms. Brown stated the County ordinance mirrored the state code, where alterations are allowed that do not expand nonconforming uses.

Mr. Fraley stated he supported staff recommendations.

B. Administrative Procedures zoning ordinance updates

Mr. Jose Ribeiro stated the first administrative procedure ordinance update addresses when the county requires site plans. He stated staff recommends adding a list of site plan exemptions to the ordinance, primarily site plan amendments for small structures with very limited impacts. The ordinance amendment would simplify the development process for site plan amendments.

Mr. Fraley stated that rather than have long listings of when site plans are required and when they are not, the ordinance language should be simplified to require site plans 'for construction of new buildings or expansion any building or structure by more than 20% of the of the existing floor area.' He stated staff should consider similar requirements and language.

Mr. Murphy stated staff would prefer not using a list. He stated staff would review language along the lines Mr. Fraley suggested.

Mr. O'Connor asked staff to consider other minor site plans exemptions, such as stormwater repair.

Mr. Ribeiro stated staff recommended removing the fee schedule from the zoning ordinance. He stated since the Commission reviews all ordinance changes, the removal would expedite all fee changes straight to the Board.

Mr. Peck stated fees are a fiscal, not a zoning, matter.

Mr. Ribeiro stated definitions are the most continually revised section of the ordinance. He stated staff recommends revising a list of unclear definitions and adding another new set of terms. New definitions will be brought to the Committee as planners revise individual sections of the ordinance.

Mr. Fraley stated he agrees with staff recommendations. He stated the current definition of 'structure' caused past controversies and the new definition would require careful thought. Staff should use the Comprehensive Plan definitions as a source and ensure definitions in both documents match.

Mr. Peck stated he agreed with the definitions update process.

Mr. Ribeiro stated adding illustrations to the zoning ordinance would serve as a teaching aide. Staff recommends adding illustrations to the ordinance.

Mr. Fraley stated he agreed with adding illustrations.

Mr. Ribeiro stated master plan requirements would be condensed into a single ordinance section.

Mr. Fraley asked staff to review any conflicts between zoning ordinance master plan language in the larger county code.

Ms. Sarah Propst stated staff recommends creating a policy for environmental submittal requirements for legislative cases and including language in the ordinance listing environmental submittal requirements for site plans, and subdivisions. All environmental requirements would be consolidated into a checklist included with applications.

Mr. Peck stated he would like clarification on the county's process for updating administrative policies. He stated he would like the process to involve public comment.

Mr. Murphy stated he would prefer all policies endorsed by the Board at a public meeting. He stated in this case, the ordinance update, and with its related policies, will be recommended by the Commission and sent to the Board during a public process.

Mr. Peck stated he would like to see all Board and administrative policies collected in a single document, as well as providing them all online on the county website.

Mr. Brian Elmore stated staff worked on a template over the past year to standardize fiscal impact studies received by the county. The County currently has no fiscal impact guidelines. Staff recommends including the fiscal impact template as a submittal requirement for legislative cases.

Mr. Fraley stated he has been frustrated to receive two sets of fiscal impact numbers, one from the applicant and one from the county. He stated the county should endorse a set of numbers.

Mr. Murphy stated part of the exercise would be to impress upon applicants what the county believes are the appropriate numbers.

Mr. Fraley stated he had concerns that increased tax revenue from new businesses was often overstated as those businesses reduced local competitors' sales. He asked staff to think about those conditions. He staffed the common process and assumptions were a good step forward. He stated he had concerns applicants would be able to manipulate the phasing model.

Mr. Elmore stated staff had calculated a two year window for commercial phasing. He stated applicants would have the most leeway in the residential phasing and employment sections.

Mr. Murphy stated an appropriate phasing model will be determined before Board adoption. He stated the template would be sent to the private sector for input after Committee review.

Mr. O'Connor asked if staff had tested the model against existing fiscal impact studies.

Mr. Elmore stated staff ran test cases, but no template results were close to the studies provided to the county.

Mr. Peck stated the template should be as user-friendly as possible. He stated fiscal impact numbers should be the county's decision.

C. Subdivisions

Ms. Ellen Cook began with a discussion of alternative onsite septic systems, and stated that the subdivision ordinance revisions would coordinate the county language with state codes.

Ms. Cook moved on to family subdivision provisions, and stated staff recommends applicants own parcels 5 years before allowing them a family subdivision. She stated staff recommends limiting family subdivisions to A-1 and R-8 districts.

Mr. Fraley stated he agreed with staff recommendations on family subdivisions. He then stated there were discrepancies in the ordinance, where the development procedures in section 19-23(b-c) appear to only discuss 50-lot plus subdivisions instead of all major subdivisions.

Ms. Cook stated Section 19-24 discusses the development process for 9 to 50 lot subdivisions.

Mr. Fraley stated that his point was with regard to Development Review Committee review, and asked staff to strike the language in 19-23(b-c) which are the sections that describe DRC review of subdivision plans.

4) Adjournment

Mr. Peck moved to adjourn.

The meeting was adjourned at 7:45 p.m.

Reese Peck, Chair of the Policy Committee

POLICY COMMITTEE MEETING

February 24, 2011

7:00 p.m.

County Complex, Building A

1) Roll Call

Present

Mr. Reese Peck, Chair

Mr. Al Woods

Mr. Jack Fraley

Absent

Mr. Tim O'Connor

Staff Present

Mr. Allen Murphy

Ms. Tammy Rosario

Mr. Jason Purse

Ms. Ellen Cook

Ms. Terry Costello

Mr. Reese Peck called the meeting to order at 7:00 p.m.

2) Minutes –

A. February 3, 2011

Mr. Jack Fraley moved for approval of the minutes.

In a unanimous voice vote, the minutes were approved (3-0: Absent O'Connor).

B. February 7, 2011

Mr. Fraley moved for approval of the minutes.

In a unanimous voice vote, the minutes were approved (3-0: Absent: O'Connor).

3) Old Business

Mr. Reese Peck stated that he was in receipt of comments from the James City Concerned Citizens Coalition (J4C) concerning the Economic Opportunity Zone (EO). Mr. Fraley stated he was in contact with a representative from J4C and that they would like the opportunity to meet with staff and one or two members of the Policy Committee to discuss their comments. Mr. Jason Purse suggested that the Policy Committee review the draft ordinance for EO prior to this discussion taking place.

Mr. Purse initiated the discussion on the current legislation regarding Urban Development Areas. Per the legislation, the County either passes a certification resolution or updates the Comprehensive Plan to be in compliance. He stated staff is currently reviewing the Comprehensive Plan in comparison to the language in the *Code of Virginia*. The goal is to bring this information to the Policy Committee at the next meeting on March 16, 2011.

4) New Business

A. Green Building Zoning Ordinance updates

Ms. Ellen Cook started the discussion on green building ordinance updates by mentioning some of the programs that are available. Staff's recommendation was to utilize the LEED and Earthcraft certifications that are available, with provisions of equivalent programs as the industry developed.

Mr. Fraley wanted to emphasize the use of equivalent programs, especially as the industry changes.

Mr. Al Woods asked how difficult it would be for staff to remain aware of new programs that may be utilized in the industry. He also asked who would determine if the programs are equivalent.

Ms. Cook answered that staff could be a part of the decision making along with the stakeholder group whose recommendations were a part of this discussion. The developer could also provide information if there is an equivalent program that staff may not be familiar with. Ms. Cook also mentioned that the policy would be that staff would periodically review programs that were available.

Mr. Woods asked how it would be defined so that applicants would have some predictability when submitting applications.

Ms. Cook stated that it could be included in the policy that the program's equivalent would be determined by the Planning Director or list programs that the Planning Director could consider.

Mr. Richard Costello, of AES Consulting Engineers, stated that a determination by the Planning Director would be acceptable. There are programs developed on a constant basis, especially for single family dwellings.

Ms. Cook started the discussion on whether actual certification should be obtained, or whether points on a checklist should be used. Some localities use the check list but they have dedicated staff to accomplish this. Staff recommends actual certification be required given current resources. The Policy Committee agreed.

Ms. Cook stated that staff agreed with the Green Building Roundtable Report recommending a Board policy which states that buildings over 10,000 square feet with are rezoned or need a Special Use Permit achieve Green Building Certification at the basic certified level. For residential development, staff had a preliminary recommendation of expecting a basic certified level for 35% of homes in a major subdivision. Staff also recommended reviewing the ordinance to offer incentives for higher levels of certification and/or offer incentives for those developments outside the thresholds. Staff also recommended providing recognition to those who have achieved these certifications.

Mr. Fraley questioned how much this certification would increase the cost of developing.

Mr. Costello stated that developers are building according to Earthcraft certification. He stated that much of the certification is energy related and that is what people are buying. Buyers want this type of dwelling. He suggested 100% of homes when requiring it for major subdivisions. He suggested leaving some flexibility for other programs other than those stated in the ordinance. Mr. Costello stated that for commercial, certification can be very expensive.

Mr. Peck suggested staff contacting the Peninsula Homebuilders Association and getting some information on the increased cost of these certifications on construction.

Ms. Cook next spoke about enforcement of these regulations. Staff recommended some language in the policy so that it is clear to developers. She asked for suggestions on enforcement mechanisms. She stated that the builder would obtain third party certification so that it was not the County's responsibility to police that aspect, but that there needed to be provisions in place to make sure certification was followed through on. She explained one locality had what was effectively a bonding process and that this might be an option.

Mr. Costello suggested requiring initial submission of the project checklist when a building permit is issued, rather than at the site or subdivision plan level.

Ms. Cook stated that she had been looking into having an initial version of the checklist at the site plan / subdivision plan review level due to the fact that there are checklist point opportunities, such as tree preservation, that would be best addressed up-front during the site design.

Mr. Fraley cautioned about overuse of incentives. He asked whether the County should offer incentives for higher levels of certifications in terms of the benefits that would be obtained.

Ms. Cook answered that the benefit would be a higher program standard.

Mr. Woods asked how it was determined that the 10,000 square feet be used as a threshold.

Ms. Cook answered that it was the recommendation of the Green Building Roundtable.

Ms. Cook discussed the last item in the memo, which was the possibility of looking at an expectation of energy star certification for those developments that would not trigger third-party certification requirements. Energy would be one of the multiple components of what Green Building encompasses.

The Committee agreed that this would be a good area to research and review.

B. Mixed Use Districts Zoning Ordinance Updates

Mr. Jason Purse initiated the discussion on the R-4, Residential Planned Community District, and PUD, Planned Unit Development. These areas along with the Mixed Use designation have been viewed by the community as those districts that allow multiple uses but do not provide the same predictability as other districts. Mr. Purse stated that all these districts have Comprehensive Plan designations, with the Mixed Use designation having specific uses depending on the location in the County. All of the descriptions have some uses that are categorized as primary and secondary uses. One of the requirements for these districts is to create a master plan, where the land use designations are listed in the specific areas. There is some flexibility with this. Once the master plan is approved that will dictate what kind of development will occur on site.

Mr. Peck raised his concerns about linking the Comprehensive Plan to the Zoning Ordinance. He expressed his ideas about having the descriptions in the ordinance.

Mr. Fraley would like to see the mixed use areas listed in the ordinance. Performance and developments standards are needed. He would also include building design standards and sidewalk standards. The ordinance does need some flexibility to control some of the mix.

Mr. Purse stressed the importance of getting an adequate mix of uses. He solicited ideas on how specific the Committee would like to be on the uses.

Mr. Fraley suggested linking those areas to the ordinance.

Mr. Murphy stated that the issue with that is there would have to be at least thirteen different descriptions for mixed use alone.

Mr. Peck stated that if these are governing rules then they need to be in the ordinance not the Comprehensive Plan.

Mr. Costello commented that the County should have recommendations or a plan for those areas but to lock it down would not be advantageous to the development community.

Mr. Murphy stated that he felt there could be better descriptions of these thirteen districts in the Comprehensive Plan. This would allow some flexibility and allow for some discretion.

Mr. Fraley agreed that this may be the preferable option in that it provides needed flexibility.

Mr. Costello stated that recent legislation will set some limits that the County does not have currently.

Mr. Purse suggested having design and performance standards in the ordinance so as to be more predictable and to give the development community ideas of what is desired in those areas.

Mr. Purse stated that during discussions concerning a continued care retirement case, it was suggested to strength some of the language in the R-4 designation. It was determined that some language was unclear as to ownership or control of a master plan. Staff obtained an interpretation from the Zoning Administer and County Attorney's office. It was determined the developer or the owner would control the master plan.

Mr. Purse then went through items that came up through the Sustainability Audit.

Mr. Fraley questioned requirements versus incentives.

Mr. Peck believes that incentives should always be used.

Mr. Purse mentioned that one of the things to consider is that not all of the bonuses provide the same benefit. Categories would need to be determined.

Mr. Fraley does not prefer performance based codes or form based codes.

There was a discussion on areas that are mixed use which could include some industrialized areas. Mr. Woods asked what light manufacturing might consist of.

Mr. Purse stated he would come up with some uses that would be in this category. He will also consult with the Economic Development office.

Mr. Purse talked about form based codes especially for redevelopment, mostly in the Toano area. This was listed as a GSA (goal, strategy and objective) of the Comprehensive Plan. Staff has been working on methods to revitalize the area. A by-right form based code encourages development. The County does need to make sure that the infrastructure is in place for the development being proposed. There are also design guidelines for Toano that have been in place. Staff does not recommend form based codes, but instead use the guidelines already in place, and possibly provide a redevelopment district to assist developers. Staffs suggested developing a redevelopment ordinance and incorporating some of the elements of form based codes.

Mr. Peck suggested using some incentives to encourage development in that area with a certain look that is desired. This would come to a policy decision. Form based codes would require some subsidies from the County.

Mr. Costello suggested overlay districts. He stated some developers have had some discussions. He suggested maybe in smaller areas, such as Toano.

Mr. Murphy stated that staff has envisioned that in areas where there are design guidelines.

5) Adjournment

The next meeting is March 16, 2011 in Building A at 7:00 p.m.

Mr. Fraley moved to adjourn.

The meeting was adjourned at 9:08 p.m.

Reese Peck, Chair of the Policy Committee